Second Representation

OF THE

HOSPITALLER

OF

St. *Thomas Southwark's*

CASE

In an Humble

ADDRESS

To the Right Honourable

Sir *THOMAS PILKINTON*,

Lord Mayor

OF THE

CITY of *LONDON*.

By *J. T.*

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MY LORD,

I Am extremely ſorry it ſo happens through that unhappy poſture of my Affairs, to which the Importunities of an unjuſt and barbarous Antagoniſt have reduced me, that I muſt be forced to run ſo great an hazard of incurring your *Lordſhip*'s and the Courts diſpleaſure, by this my repeated Vindication of my ſelf againſt the ill practices of ſo bad a Man; becauſe I am ſenſible I cannot do it without calling in queſtion the Validity and Obligation of thoſe ſeveral Orders which have been made by you in his behalf; for if thoſe Orders are as valid and binding upon me, as they are Categorical and poſitive in themſelves, I muſt be guilty in not paying them the Obedience they deſerve of a moſt unpardonable Contempt, for which no Cenſure of offended Juſtice, no Inſtance of your *Lordſhip*'s Indignation and Reſentment could be too great or heavy. But, my *Lord*, I beg your *Lordſhip* would conſider, that tho there have been three ſeveral Orders paſſed for my Ejectment, the firſt only general, and equally reſpecting all the ſeveral Members and Officers of this Houſe, that were ejected out of it by the late Commiſſion, together with us, that by the ſame Authority were ſubſtituted and appointed in their room; the other two particularly directed againſt me, which as yet I have not been able to perſwade my ſelf, that I am bound in Duty to comply with them; yet this was not done out of any ſtiff, or diſobedient Humor, which is a thing I am as far from as any Man living, being ſo throughly convinced of its pernicious tendency to the diſturbance of Peace and Order amongſt Men. But it was upon this Conſideration, that the whole proceeding ſeemed to me, upon the beſt and moſt impartial Judgment I was capable of making to be grounded; Firſt, upon a wrong bottom of the Reſtitution of the *Charter*, and Secondly, upon a defective Juriſdiction, which could not legally extend it ſelf ſo far as to the making or paſſing any Order of this nature.

As to the buſineſs of the *Charter's* being reſtored, that it hath no neceſſary influence upon the Affairs or Officers of our Houſe; That this Regulation might have been made tho the *Charter* had ſtood,

and that it is not at all affected by its Reſtitution, tho the whole matter had been referred to your *Lordſhip*, and your worthy Brethren, without any Interpoſition of an higher Power, or any appeal thereunto; I hope I have demonſtrated beyond all Exception in my former Paper addreſſed to your *Lordſhip* and the Court; and in this I have not ſpoken only my own ſence, but that of the beſt Lawyers this Kingdom affords, whoſe Opinions, and the Reaſons of them I have at large tranſcribed from an Authentick Copy, the Original of which, if required, we are ready to produce; and we doubt not in the leaſt but thoſe learned Gentlemen, the juſt Pride and Ornament of the *Long-Robe*, whoſe Opinions ſeldom want the authority and effect of Laws, will firmly abide and ſtand by what they have written, and what they have ſo unanimouſly conſpired and conſented in, led by the force of Truth, which is every where the ſame, without conſulting with or borrowing from each other.

Now, my *Lord*, with your *Lordſhips* good leave, by this it plainly appears, that neither Mr. *Hughes*, nor any other of thoſe Gentlemen that have been reſtored by your Order, had any legal Pretention to their places, by the meer force and virtue of the *Charters* Reſtitution, and upon ſuppoſition that they had had any, the *Charters* being reſtored would have reſtored them *ipſo facto* together with it ſelf, and they might have compelled us by Law to relinquiſh our Places, without any Order of Court; which could have no authority, and which pretends to none but from the Reſtitution of the *Charter*, which was, it ſeems, ſufficient of it ſelf to have ejected us without it, and to have put them in poſſeſſion of their ſeveral Places.

So that Mr. *Hughes* having no pretention in Law, by vertue of any right annexed to his Perſon by the return of the *Charter*; yet ſuppoſing the Cognizance of that whole Matter to have layn before your *Lordſhip*, and the Court of *Aldermen*, as I humbly conceive it did not, though you might have ejected me, and put him into my Place by vertue of that legally arbitrary and unaccountable Power, that was lodged and veſted in you; yet it would have been highly for the Reputation and Honour of your Court, which I do ſincerely prefer in my own private thoughts before any advantage or intereſt of my own, when all things were equal betwixt Mr. *Hughes* and me, as to any ſtrict Property, or legal Right, which neither of us could with any juſtice claim, to have conſidered which of us two had the moſt equitable things to be ſaid in our behalfs; and here

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tho all other things had been alike between us, yet it is, and hath always been taken as a Maxim, *in equali jure melior eſt conditio poſſidentis*, that is, If a Controverſie ſhall ariſe or happen between two about a matter of Right, if both of the Pretenders appear to have equal Right, or if neither have any, that is ſtrictly legal; the conſiderations of equity being equal betwixt them, and the one being in poſſeſſion, the other not, the deciſion ought to be in favor of the Poſſeſſor, and your *Lordſhip* knows we have a Proverb to the ſame purpoſe in our *Engliſh* Tongue, *That Poſſeſſion is eleven Points of the Law*, ſo that according to this Maxim; I being in Poſſeſſion, and all other Circumſtances *ex Hypotheſi* admitted to be equal and alike between us, the Right, if there be any, is mine, and not Mr. *Hughes's*, becauſe I am in Poſſeſſion, which he is not.

In the ſecond place, my *Lord*, I have another advantage, and that a very great one above him, in that I am ſo nearly related to the City, I am my ſelf a Citizen at the firſt remove, and with Submiſſion to your *Lordſhip*, and the Honorable Court, I do affirm that it is your unqueſtionable Duty to favor me before Mr. *Hughes*, ſuppoſing all other Circumſtances to be but equal between us, and to do otherwiſe falls but little ſhort of a Breach of that Truſt that is repoſed in you, for the good of the City and Citizens, and their Children.

But things are ſo far from being equal between us, that it appears he never had any Title to this Place, even when he was formerly in Poſſeſſion of it; becauſe for the firſt three years he was not in *Holy Orders* according to the uſage of the *Church of England*, he never had any Epiſcopal Ordination, neither did he ever conform for all that ſpace of time, which in Conſtruction of Law is near one half of a Life, to the Diſcipline and Ceremonies of the Eſtabliſhed Church; and Sir *Simon Degg* ſpeaking of Donatives, as this Chappel is, affirms expreſly upon good authority, beſides what I have already repreſented in my former Paper, that the Patron, (who is in this Caſe the King, or Court of *Aldermen*, or Governors acting under them) cannot collate a Lay-man, as ſome have thought, but a Spiritual Perſon in *Holy Orders*; and to this it is ſtill further to be added, that this *Hoſpital* being founded by the Piety and Royal Bounty of *Edward* VI. who was in ſome ſence likewiſe the Founder and Eſtabliſher of the *Church of England*, there being but very little difference between his Reformation and ours, as it ſtands improved and Rectified at this day; the deſign of which Reforma-

Parſon's Counſellor, par. 1. *c.* 13. *p.* 164.

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tion was on the one hand to aboliſh and extirpate *Popery*, with all its groſs Idolatries and Superſtitions; and on the other, to prevent Schiſm and Diſorder from tearing and rending the Seamleſs Coat of Chriſt, and ſhattering the Church by infinite Separations, it was an affront to the Memory of that Glorious King, to put a Man into his Houſe, and feed him with his Bread, who was as great an Enemy to his Eſtabliſhment, as to *Popery* it ſelf; and thought himſelf obliged in Conſcience, if his Heart and his outward Profeſſion went together, to pull down one Church as well as the other. For in this Caſe, that Will of King *Edward*, which in diſtinction to written, and nuncupatory Wills, may be called his *Teſtamentum implicitum*, his Will or Teſtament by implication, or by way of *innuendo*, was manifeſtly and foully violated and broken, to allow a Diſſenting Miniſter in his own Houſe, that would ruine and deſtroy the Reformation he had made, by endeavouring to ſpread and encourage a departure from it, and all this at his proper Coſt and Charge, out of the publick Revenue, being certainly as much againſt the true meaning and intention of that Prince, and of thoſe good Men under him, who put him upon this Charitable deſign, and were themſelves great Inſtruments in the Reformation; as if a Maſs Prieſt, or Popiſh Monk or Friar had been placed here at the ſame time, for the *Medium* perfectly by being what it is, hath a natural averſion for both of the extremes, and cannot comply with or reconcile it ſelf to either of them, without quitting its Station and forfeiting its Nature; ſo that I cannot underſtand how Mr. *Hughes* could be placed here, without a plain Contradiction to the certain, though implicit Will of our Royal Founder, neither can I comprehend how the living diſcharge their Truſt, by violating and affronting the Will of the dead, eſpecially when the Laws, which are always ſuppoſed to ſpeak the King's Mind, continue ſtill the ſame as they were before.

For I grant, that in the late Times the Caſe was otherwiſe, and that it was perhaps better to have a Diſſenting Miniſter in this Houſe, than no Miniſter at all; and that in ſuch caſe ſuch a Diſſenting Preacher ought in juſtice to receive the Wages of the Houſe, though he did not do all the work, that the Founder himſelf, had he been living, would have expected from him, or that the Laws put in Execution would have exacted, and this was much more true of other Officers belonging to this Place, that it was more eligible, ſo they were but honeſt, and fit for their Stations, that Diſſenters

ſhould

ſhould be truſted, than that ſo uſeful and ſo great a Charity ſhould be diſappointed.

I grant ſtill further, my *Lord*, that even at this time, or at any other before it, when the Laws were moſt rigorouſly put in Execution, yet no man more than uſually eminent in the Profeſſion of Phyſick, or in the skill of Surgery, or in the dexterity of manual Operation, belonging or appertaining to it, ought to be or to have been diſcarded from his Employment, meerly for his diſſent; becauſe this were to do an injury to the Houſe, and to deprive it of that benefit which it receives by them; but where Men equally or perhaps more skilful and diligent in their Employments may be had that conform to the Eſtabliſhment, as it is ſetled by Law, there it is more agreeable to the Will of our Royal Founder, and to the Intention of the Law it ſelf, which in no caſe deſigns to encourage or reward Diſobedience, as ſuch, that Perſons fully qualified by their Conformity to it, ſhould be retained in every publick Service, and receive the Pentions and Salaries of the State.

And it is ſtill more eminently and univerſally true, that in the Patients themſelves, who are the objects of this Charity, the Perſons intended to be relieved and ſuccoured by it, and for whoſe ſake all Officers and Miniſters are employed and paid; no Conſideration ſo much as that of Neceſſity and Want, the greater or leſſer need that one or other may have of the aſſiſtance of this Houſe, ought to diſcriminate one Perſon from another, without any regard to a Religious Perſwaſion, which it would be the worſt and moſt inexcuſeable ſort of Perſecution in ſuch a Caſe to conſider.

But none of all this was Mr. *Hughes* his Caſe, the Law allowing no Preacher but a Conformiſt, and much leſs rewarding him for ſuch his Service out of the publick Revenue, and without having recourſe to the Implicit will of our Royal Patron and Founder King *Edward* VI. (though that be ſo manifeſt, by Indications that cannot deceive, that there can be no longer doubt of the matter) by the plain, explicit and poſitive Inſtitution of his Royal *Charter*, It is ordained among other things, that he ſhall be a Prieſt or a Perſon qualified, not only to Preach or Pray, but alſo to adminiſter the Sacrament upon occaſion, and this is an Office which none but a Prieſt rightly qualified and ordained according to the Conſtitution of the *Church of England* can legally perform; ſo that Mr. *Hughes* was unqualified, not only according to the Laws of this Land,

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and the implicit Will, but according to the expreſs and poſitive Inſtitution of that bleſſed King, who had certainly the greateſt and moſt nnqueſtionable Right, to impoſe what lawful terms he pleaſed upon his Servants, and they are all lawful Conditions, when we ſpeak in a civil and political Sence, that are Conditions according to Law; for I do not enter into the merits of the Cauſe betwixt the Diſſenters and us.

Your *Lordſhip*, I hope, will pardon me, that I ſuggeſt ſo many things in this my ſecond Paper, that have been already repreſent-in my firſt; you may perceive Sir, that I do it in a ſome what different Method from what I did before, leaving out thoſe Reflections in this ſhort review, which however true and certain in themſelves, afforded but too much occaſion for Offence, and ſtarting new matter for Remark and Obſervation as I go along; it being my deſign to ſet all things as near as I can in a ſomewhat clearer light, and to contract the whole into a ſhorter compaſs, that ſo your *Lordſhip* may conſider it with the leſſer trouble, and at a nearer view, without ſo much diſturbance to the great Affairs that are the Employment of thoſe buſie hours, of which the Publick neither muſt nor will be defrauded.

My *Lord*, all that Mr. *Hughes* hath to urge in his own defence, when he is charged with Non-conformity for three years together, while as a Miniſter he received the Wages of this Houſe, is this, he doth not deny, nay, not ſo much as extenuate or excuſe the thing, but all is well, *ſaith he*, that ends well; he was in Orders for a twelve Month or thereabouts, before he left the Place; and this he thinks was a Confirmation without a new Choice, and that his continuance in the Houſe for ſo long after his aforeſaid Ordination, amounted to as much as if after Reſignation he had been formally elected by a Majority of thoſe that had a Right to do it, but beſides what I have ſaid already upon this occaſion, which, I hope, your *Lordſhip* in Juſtice to me, will, at your leiſure conſider, Mr. *Hughes* either never knew or is not willing to remember, that it is a Maxim in the Civil Law, which in this is founded on the higheſt Reaſon; *Quod ab initio non valet tractu temporis non convaleſcit*: That title which is defective and faulty in its beginning, cannot be ſtrengthened by continuance, uſance, or by length of Time; and the learned Lawyer whom I have above-cited in the Caſe of Donatives, alledging this very Reaſon, puts this Caſe in the buſineſs of Plurali-

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ties, which I have a little enquired into for Mr. *Hughes's* sake. *If the eldeſt Son of a Duke, Marqueſs,* &c. *retain Chaplains in the life-time of his Father, who after dyes, and the Honour deſcends upon ſuch Son, yet this retainer will not qualifie his Chaplains to have Pluralities within the Statute,* (by which a Duke, Marqueſs, *&c.* may qualifie their Chaplains to hold Pluralities at the ſame time,) *becauſe at the time of the retainer he was not capable to qualifie them, Et quod ab initio non valet tractu temporis non convaleſcit.* From whence the Application is eaſie to our preſent Caſe; for if a Clerk being Chaplain to the Son of a Duke or Marqueſs, who as ſuch cannot qualifie his Chaplain for a Plurality, ſhall yet notwithſtanding under this pretence poſſeſs and occupy two Livings at the ſame time, and this without controll till the death of his Patrons Father, when he, becoming Duke or Marqueſs himſelf, hath a legal Title to qualifie his Chaplain; and the ſaid Chaplain by his being ſuch, is in a legal capacity of being qualified by him; but yet notwithſtanding this, he ſhall not hold both of thoſe Spiritual Preferments together, by virtue of his former retainer: but upon Information exhibited againſt him, he ſhall be obliged to ſurrender the firſt of his Preferments, which became void in Law at the very moment of his being fully and peaceably poſſeſt of the latter, and hath continued in Law to be void ever ſince that time: Then the Caſe is clear in Oppoſition to Mr. *Hughes*, that his poſſeſſion being illegal, and his Election void in Law at the very inſtant when he was choſen, though he were afterwards in a Capacity to be legally elected, yet without an actual Reſignation on his part, and an actual Re-election on the part of thoſe that choſe him, or of others fitly qualified to appoint and chuſe him; no connivance or ſufferance was ſufficient for his purpoſe in this Caſe, any more than in the other; for the Rule is equally applicable to both Caſes; *quod ab initio non valet, tractu temporis non convaleſcit*; That title which is vitious and faulty in the beginning, cannot be mended afterwards by length of Time, which is not to be underſtood in Prejudice to Preſcription, which is a legal Title; but of thoſe leſſer periods of time that are confined within the narrow compaſs of a few years, or wherein one Man's Life or Poſſeſſion is concerned.

Part 1. c. 4. p. 28.

If the Clerk in the firſt Caſe reſigning his Living, ſhall afterwards obtain a new Preſentation to it from the Patron, which in this Caſe muſt generally be the Biſhop or the King, the Living being ſuppoſed

to be lapſed for want of a legal Incumbent; he may then by application to the Duke or Marqueſs or other qualifying Perſonage that retains him, obtain a legal qualification for the re-enjoyment of it, together with his other Preferment, but not elſe: And by the ſame reaſon Mr. *Hughes* having actually reſigned, and being actually rechoſen, might have pretended ſomething of a Title to his laſt years Poſſeſſion of this Place; but his firſt choice being void, and no new choice being made, no connivance or ſufferance can avail him any thing in this affair, any more than it would in the other; ſo that it is plain he never had any Title, and if to this we add his groſs and foul neglect in the Execution of his pretended Charge, from which he can never purge and vindicate himſelf. I preſume it will be granted by all Men, that a weaker Cauſe never had the Honor of ſo great a Patronage, as that of your *Lordſhip*, and thoſe other Gentlemen, that through miſinformation in the true State of Mr. *Hughes* his Caſe, have been ſo unfortunately Charitable to believe, and ſo injuriouſly kind as to protect him.

This is the third Conſideration, by which it may appear not only that Mr. *Hughes* hath no ſuch legal Right as he pretends to, but that in Equity I have much the advantage of him, upon Suppoſition that my firſt appointment and miſſion to this Place was legal, (which his was not) of which I ſhall ſay more hereafter; and I think two Talleys or Indentures cannot ſtrike more exactly than the Caſe of Mr. *Hughes* doth with that other above-mentioned, which, it ſeems, is a ruled Caſe, and therefore concludes the more ſtrongly againſt his Pretences; let him waſh his Hands of it as he can.

A fourth Conſideration in Equity, is this, That Mr. *Hughes* ſhortly after his Ejection out of this Place, had another beſtowed upon him of double the value; and a Freehold inſtead of an arbitrary Dependance; for which no Man would give a years Purchaſe if it were to be ſold, conſidering how tickliſh and uncertain words *durante beneplacito* are uſually found to be; whereas a Freehold in common acceptation is, for one Life, worth ſeven; and the intrinſick Value is the ſame in Spiritual Preferments, though they are neither to bought or ſold: So that admitting Mr. *Hughes* his Living to be double the value of his late Preferment here, which is the loweſt account it can be computed at; the advantage he hath gotten by his remove from this to that, is in the proportion of fourteen to one;

one; an exchange for which I think he ought to be thankful to the kind Providence that ejected him from hence, without endeavouring to reinstate himself against so many and great reasons as contend against him, and which he can answer with nothing but an hard forehead, which is proof against Conviction, and is placed above the bashful Region where modesty and blushes dwell; nay, suppose that placing a Curate in his Country-Living, for I take it for granted your Lordship will not endure a Non-resident in this Place, he can after all secure twenty Pound *per annum de claro* to himself, yet this according to our former Computation, is an advantage no greater than one in *Forty Two*; and what sort of Creature, or rather Monster of Covetousness and Envy must this Mr. *Hughes* be, who will eject me out of two thirds to gain one to himself, and that one but the two and fortieth part in common Estimation, of what I was the contingent occasion of his getting, by being substituted in his room in this House?

His Living, *my Lord*, as I have been informed is at a place called *Little Stoughton* in the County of *Bedford*, and he lets it at this time for an hundred and ten pounds a year, and by that its true value should be about sevenscore, that is, about twenty or thirty pound *per annum* more then his Tenant pays; for no Man will take the trouble of farming it upon him, without a prospect of advantage amounting to thus much at least; now being resident upon the place, he may if he pleaseth take his Tithes as they arise in kind, without injury or so much as inconvenience to any, for the Farmer will be sure to make all the advantage, which he himself might lawfully have done; but if he be non-resident, as he must be in this case, if your Lordship and the Court persist in your resolution of bestowing the Hospital upon him, and he in his of accepting what you offer, it will then be his best way to set the profits of his Living to Farm, but then nothing is more clear than that at the foot of the account he will not get one farthing by the bargain, and will you, my Lord, do me so great an injury who am a Citizens Son, for the sake of an Alien, a Foreiner, and an ill Man, who can get nothing by it, but the gratification of a groundless malice and prejudice against me, a passion which it ill becomes the honour and justice of your Court, to countenance and encourage in any Man whatsoever, and much more in one of Mr. *Hughes* his Character and profession. Mr. *Hughes* indeed is pleased to

ſay betwixt jeſt and earneſt; for it looks like a jeſt, though it be ſpoken ſeriouſly, that this Living was not given him in conſideration of the Hoſpital which he loſt, but for ſome other reaſon, God knows what, but I am ſo bold to affirm that I have proved plainly from the nature of the gift it ſelf, compared with the ſmall Preferment he was deprived of, that it was for this very reaſon, and that it could be for no other. And beſides this, I have appealed to the ſacred teſtimony of a right noble and right Reverend Prelate of our Church, together with ſeveral other eminent and learned Perſons of the greateſt repute and Authority belonging to it, before whom Mr. *Hughes* dare not ſhew his hypocritical and diſhoneſt face, out of a ſenſe of the ingratitude and baſeneſs of this pretence, which is ſo great a diminution to the kindneſs and humanity they ſhewed him at that time, and includes moreover an arrogant and proud aſſuming to himſelf, as if his merit and not their compaſſion had extorted and ſnatcht that generous benefaction from them.

I never heard any thing urged to palliate ſo groſs and palpable a falſhood, but that the conſideration was not given him by the ſame Perſons that ejected him from hence, and therefore they conclude and argue like themſelves, who underſtand neither Premiſſes nor Concluſions as they ought to do, that one was not given him in lieu of the other: but thoſe Gentlemen know beſt upon what motive they did it, and to them I make my humble, but yet confident Appeal, which Mr. *Hughes* with all his impudence dare not do, and I do really reſent the injury, and affront which is done to the City and the Court of Aldermen by ſuch a barefac'd Lye, inſinuated with all the ſeeming ſincerity and addreſs, which is only natural to truth, and very ill becomes that Falſhood and diſguiſe, which incapable of a modeſt and juſt aſſeveration, needs a meretricious and feigned one to ſupport it. One worthy Member of the honourable Court was pleaſed to tell me in the Court it ſelf, that Mr. *Hughes* his Living was not given him in conſideration of his loſs, to which with all humility I reply'd, That though I had ſeveral other things to urge againſt him, yet I was very willing to put the Iſſue of the whole matter upon this ſingle Point, and I continue ſtill firmly in the ſame reſolution, notwithſtanding he cannot anſwer or vindicate himſelf from any one thing that I have urged againſt him, and if there were nothing elſe but this to be conſidered, by this you may

ſee

ſee my Lord, what manner of Man it is that pretends and would be thought to fly to you for Refuge; but hath indeed no other but only in ſhams and evaſions: I ſhall wonder very much, upon ſo fair a detection, if your Lordſhip and the Court ſhall patronize him any longer, who hath abuſed and impoſed upon the Charity and goodneſs of the Bench you ſit on, at ſo unmannerly and ſo vile a rate. I refer my ſelf very willingly to your Honor and Judgment, whether that Man ought to be entruſted with the Conſciences of others, who diſcovers ſo plainly that he hath none of his own? who pimps and proſtitutes his Word and Soul upon no other conceivable advantage, but only the gratification of an unchriſtian Malice, very diſagreeable to a Man of his Cloth and Function, and the fruitleſs purgation of an inexhauſtible Spleen, which renews it ſelf by waſting, like the Widows Cruize, and knows neither end nor meaſure? nay, I cannot chuſe but ſmile within my ſelf, at ſuch an extremely pleaſant and ſurpriſing Notion, that nothing could be given him in lieu of what he had loſt; unleſs it had been given him by the ſame hands that deprived him of his ill-gotten and ill-deſerved Poſſeſſion in this Houſe; which yet it is manifeſt they could not do without a diſowning of their own Act, and an implicit acknowledgment that they had done him wrong; whereas it is but too apparent, with ſhame for Mr. *Hughes* I ſpeak it, becauſe he ſeems to have none left for himſelf, that they proceeded but upon too juſt and juſtifiable grounds.

In the fifth place, let me intreat your *Lordſhip* to conſider, that this intended Preferment or Reſtitution of Mr. *Hughes*, added to the Country Living already in his Poſſeſſion, makes him in Conſcience a Pluraliſt, whatever he be in Law: and this with reſpect to him is *argumentum ad hominem*; It is a Weapon of his own making, drawn againſt himſelf; he being a profeſt and printed Enemy to Pluralities and Non reſidence, and if he hath either Shame, Conſcience or Honeſty left about him, he muſt either relinquiſh one of theſe two Places, or give ſome publick Reaſons in defence of a Practice, which he formerly exploded, that we may be ſatisfied upon what Grounds this ſtrange and avowed Alteration of his Opinion depends. It is not only a Plurality in Reaſon and in Conſcience, but it is likewiſe a Plurality out of diſtance, thirty Miles being the fartheſt that the Canon of K. *James* I. in that behalf allows, *Can.* 41. whereas theſe two Places are forty

So alſo in Attic. Regin. Eliz. 1584. & 1597. *in the Canons of* 1571. *the difference is but twenty ſix Miles.*

Miles

Miles apart, that is, ten Miles more than the *Canon* permits to Perſons qualified by Law for two Benefices with cure of Souls, which I conceive Mr. *Hughes* is not; and the Reaſon againſt Pluralities, which is the very ſame upon which our Law proceeds, is alledged by Sir *Simon Degg* out of an ancient Councel in theſe words, *Res ipſa loquitur plura Beneficia, potiſſimum quibus cura animarum ſubmiſſa eſt, non ſine gravi Eccleſiarum damno ab uno obtineri; cum unus in pluribus Eccleſiis rite officia perſolvere, aut rebus earum neceſſariam curam impendere nequeat*; That is, the thing ſpeaks very plainly for it ſelf; that two Benefices, eſpecially with cure of Souls, cannot be enjoyed or occupied by one Perſon without great damage and detriment to the Church, becauſe one and the ſame Perſon cannot attend ſo particularly as he ought to do in ſeveral Churches, to the neceſſary and indiſpenſeable Duties that are incumbent upon him, and if this cannot well be done at thirty Miles diſtance, which is the utmoſt diſtance that our Law allows, it can much leſs at forty, which is Mr. *Hughes*'s Caſe; and though the *Hoſpital* do not require Inſtitution from the Biſhop, which is the thing that makes a ſtrict and legal Plurality; yet the Conſcience of the Caſe does perhaps ſit more cloſely upon him, than it would do in a legal Benefice at the ſame diſtance, becauſe of the number of ſick that are always in this Place, and the Perſonal attendance that is required upon them: to ſay nothing of the lewd lives of ſo many of the Patients before their admiſſion into this Houſe for cure: So that tho the letter of the Statute do not preſs him, yet the Conſcience and the Reaſon of it, which to every honeſt Man ought to be more ſacred and obligatory than the other, can never be ſhaken off by any Man that hath a Conſcience, and much leſs by him that hath written ſo expreſly, not to ſay ſo paſſionately againſt this practice in others; therefore he can do no leſs in common Honeſty and Juſtice, before he accepts this kindneſs from your *Lordſhip* and the Court, than ſatisfie the World what Reaſons have induced him to alter his Opinion, for without this, I am ſure, he can never juſtifie ſo foul a Practice. And, my *Lord*, I beg of your *Lordſhip* to take notice, that it hath been reſolved by the Judges, as my *Parſon's Councellor* informs me, That the King himſelf cannot diſpenſe with this Statute againſt Pluralities, where the Statute it ſelf does not diſpenſe with them, of which there are ſeveral inſtances to be met with in it, though in ſome Particulars, and to ſome Perſons, and

Parſon's Councellor. part 1. p. 18.

Ib. p. 29.

and in ſome certain Circumſtances, the Lawyers have agreed, whether right or wrong is none of my buſineſs to determine, that the King may diſpence; and how then can your *Lordſhip* and the Honourable Court, by giving Mr. *Hughes* the *Hoſpital* at this time, diſpence with the Reaſon and Conſcience of a Statute, when the King himſelf, becauſe of the apparent Equity upon which it is founded, cannot diſpence ſo much as with the letter of it? Though the firſt be much more Sacred than the latter, for the Law, as meerly written, is poſitive and changeable, but as founded upon Reaſons of common and unchangeable good; it is eſſential, unalterable, and eternal.

Theſe things, my Lord, are ſo very plain and ſtrong upon Mr. *Hughes*, and he begins as thick and impenetrable as his Skull is (as hard almoſt as his heart and conſcience themſelves) to be ſo ſenſible of it, that I have been well inform'd by thoſe that have it from his Confidents and Friends, that he now gives it out as a Secret in truſt, to be whiſpered abroad, as there ſhall be a fit occaſion; that he deſigns not to hold both of theſe Places together, but that upon his reſtitution to this houſe, he will immediately relinquiſh it again and leave the Governours to a new choice, and if they were left to it, I ſhould be very ſorry it ſhould appear I had behaved my ſelf ſo, as that I ſhould not deſerve the favour of their Votes againſt any other Pretender, however the Court of Aldermen, without giving me a fair and equal hearing, and without diſcovering the reaſons upon which they did it, have been pleaſed to carry it againſt me.

This account given by Mr. *Hughes* and his Friends of his expedition out of the Land of *Bedford*, into that of *Middleſex* and *Surrey*, hath at firſt ſight a very malicious and ſpiteful aſpect upon me, and I doubt not after all, but it is more than a Copy of his countenance, it ſhews the true face and feature of his deſign, though he was not willing to venture it abroad without a Maſque to conceal it from every common view, and make it walk *incognito* about the ſtreets under the diſguiſe of better and more ſpecious Names. The reaſon given out by him, as I have really been told and am ready to produce a much honeſter Man than ever Mr. *Hughes* was or will be for my witneſs, is, that he came out of tenderneſs to the poor and ſick of this Houſe, about whom he hath been ſtrangely ſollicitous for theſe five years paſt, though it is well known they were never more ſlende ly r garded, than

when

when he himself was here, and it must be confessed, my Lord, to be very frank and generous in him, and without any mixture of Interest or self-design, that he is so very watchful and jealous for the Souls of other People, with which he hath not so immediately to do, and for which he is to give no account, when he is at the same time so lavish of his own, as if it were good for nothing but to be lost and thrown away. He saith, I am unfit for my Employment; and I confess it; For *καὶ πρὸς ταῦτα τις ἱκανός*; *who is sufficient for these things?* but if all Men that are unworthy of their Employments must be turned out of what they legally enjoy, because there may be others upon the comparison more worthy, what will become of Mr. *Hughes* himself? Or would it not have been better for him to have staid, as he might have done quietly at home, than to have come so far to draw up an invidious impeachment against me, which reflects back again from whence it came, with much more severity and justice upon himself? For if the account I have given your Lordship and the Court in my former Paper be true, and I will be answerable for the truth of it, however mean and unworthy I may be in my self, yet upon a fair hearing of the matter between both Parties, upon a true representation of the management of this House, so far as the spiritual Province is concerned, in Mr. *Hughes* his time and mine, I doubt not, nay, I am very well assured, though he were to pack and pick a Pannel of his own Friends to try the Issue betwixt us, that the Verdict would and must be very much to my advantage, and Mr. *Hughes* may see, if he will cast his Eye that way, That I am no such lazy, unperforming Creature as he would represent me, by this my double Apology for my self, and defence of my most just and righteous Cause, against the injustice and barbarity of his, which he will never be able to answer while he lives, and by not answering, confesseth that he hath done me wrong, and that he puts your *Lordship* and the Honourable Bench upon doing those things in his favour, by the mist which he hath cast before the Truth of the matter, which he himself cannot justifie to himself or you.

My *Lord*, I am very sensible that Mr. *Hughes* values himself very much upon his Preaching, and that it is some defect of mine in this part of my Employment, which is the ground and root of that unfitness, for which he would eject me, and will most certainly if ever he be advanced, to the formidable stile and dignity of a tryer; but in the

the mean time, my Lord, let us play a Prize of Preaching if you pleaſe upon a Text and Subject whch your Lordſhip ſhall aſſign, and if I do not paſs upon the compariſon for a pretty midling Divine, and Mr. *Hughes* for the ſame Tub-preacher that ever he was, then he ſhall eject me, and do what elſe he pleaſeth to gratifie this Chriſtian zeal of his, though he can get nothing but infamy by the bargain.

My Lord, I do not pretend to great things, but plain Sermons among plain People are beſt, and ſeveral ſuch I have preached; if Mr. *Hughes* after a long courſe of Hypocriſie and time, have arrived to a greater Perfection than ſimple Men pretend to in the two great Accompliſhments of Cant and Grimace, I can as little help and do as little envy his Attainments, as I am Maſter of them: but true Edification, if I take it right, is onely to be had from ſober ſenſe, from plain and inſtructive Diſcourſes, otherwiſe Men may edifie, that is, they may without queſtion work themſelves into a ſerious and devout temper, by worſhipping of Images and Relicks, by ſprinkling with holy Water, or whipping with a Cat of Nine-Tails, and by many other extravagancies of the Church of *Rome:* but a Man is not edified every time he thinks or vainly conceits he is, upon grounds of meer Fanſie and Imagination; but when he underſtands his Duty and the reaſons of it, and upon this is excited to a Manly Repentance, and to a wiſe reſolution of amendment; but after all the good that is attained by one Man's affected Tone, or by anothers Geſture and Phraſe, though it may poſſibly have an wholeſom influence upon the lives and manners of ſome men, yet in it ſelf it is an edg-tool dangerous to meddle with, it is the method by which all religious madneſs and Enthuſiaſm proceeds, and he that affixes Edification or Salvation to any ſuch Whimſies as theſe, for in very truth and reality they are no better, after all his bitter Invectives againſt Popery, is himſelf nothing elſe but a worſhipper of Idols.

It is very ſtrange to me how Mr. *Hughes* ſhould bring ſo much Conſcience with him out of the Countrey when he carried ſo little with him thither: one great reaſon of his ejectment from hence, and by conſequence of what followed after it, his going into the Countrey, was, becauſe of his groſs neglect in the diſcharge of his Duty, and now he would be thought to return becauſe of mine; and how very likely it is that the neglect of my Duty, if any

ſuch there were, ſhould go ſo near his Heart, when for four years together, he never had any ſence of his own; I leave it to your *Lordſhip* and to all Mankind to determine.

How little ſence of Religion, and even of common Honeſty, Mr. *Hughes* carried down with him to his Country Living, for an Example to the Flock committed to his care, may be geſſed from his uſage of the Reverend Incumbent to whom he ſucceeded in it, whom he had the Grace to Perſecute; and it is thought would have proſecuted for dilapidations, notwithſtanding he reſigned a conſiderable time, and quitted all Profits before he need to have done it, to Mr. *Hughes* his incomparably greater benefit and advantage; for the ſum he demanded was no more than fifteen Pounds; though this is the more remarkable by what hath hapned ſince, that this was the very ſame Sum which the other day he had the confidence to demand of mine, it being my laſt Quarters Salary for this Houſe, which I earned every penny without any aſſiſtance of his. And our *Saviour* himſelf tells us, applying what he ſaith to our very Function and Buſineſs, *That the Labourer is worthy of his hire.* He did not ſo much as put in his claim to my Place till two thirds or more of the Quarter were expired, and he may remember (*a*), that upon his own Reſignation, which was ſomewhat above a Fortnight before the Quarter day, he had the whole Salary of that Quarter allowed him, though about fifty Shillings of it in ſtrictneſs would have been mine; and now he would have all my Salary for doing nothing, which was ſo far from the uſage that I have offered others, that upon the late Incumbent of St. *Thomas*'s Death, I allowed the whole Salary of the next Quarter to the Widow, as I thought in cuſtom and civility I ought to do, he dying ſomewhat after Quarter day, though I took care of that whole Quarter my ſelf, and paid the Curate out of my own Pocket.

(*a*) My Order was dated, *November* 19. 1683. that is ſix weeks before Quarter day, tho I did not enter upon the Place ſo ſoon.

I am not ignorant he pretends an Order of Court, and for ought I know he doth but pretend it, for the Original I never ſaw, nor any Copy well atteſted, for his excuſe in this matter; but I am ſo well ſatisfied of the Honour of that Illuſtrious Body, notwithſtanding they have been very much impoſed upon by falſe Repreſentations, and through multitiplicity of Buſineſs at this time, have not had the leiſure to enter into the merits of ſo inconſiderable a Cauſe as this is; I ſay, I am ſo well ſatisfied, that I am ſure they would not have paſſed an Order of this nature, but only for theſe

two

two Reaſons: Firſt, That they thought upon the miſtaken Suggeſtions that had been made to them; that the undoubted Right was in Mr. *Hughes*, and therefore they gave this Order in *terrorem*, that ſo his Right might take place, and I be compelled, or at leaſt very ſtrongly enclined to pay an Obedience to it, out of a proſpect of advantage on the one hand, or elſe of puniſhment for my Contempt on the other, not that they intended this Order ſhould ever be executed in its literal ſtrictneſs and ſeverity; but it was by way of Experiment or by way of *valeat quantum valere poteſt*, to try what I would do upon the Advertiſement I received of it; and indeed I had ſubmitted to it, and I ſhould ſtill be very willing to do the ſame, but only for theſe two Conſiderations, firſt, That by ſo doing I ſhould ſeem to allow that the Authority that made this Order, for the Quarters ſalary becoming due at the Feaſt of the *Annunciation* laſt paſt, which I had earned with my Labours in this Houſe, might with equal Reaſon make another to entitle him to all the mean Profits for theſe five years together, which I muſt either obey or go to Priſon for not doing it, if ſuch an Order had been good in Law, which tho I did not believe that ever it would be done, yet not to diſpute this Order, was in effect to acknowledge the Legality of that, and to call my ſelf by thoſe names which Mr. *Hughes* only deſerves, for having unjuſtly received the Wages of this Houſe for ſo many years together, neither would it be prudent or adviſeable in any Man in the World, out of a too profuſe reſpect and deference to any limited Authority whatſoever, to run the hazard of the minuteſt poſſibility of ſuch a fatal Conſequence as this. Secondly,

That your *Lordſhip* and the Court did not intend to uſe all that extremity of Rigour with me, which ſuch an Order at firſt view might ſeem to threaten me with, appears very plain and evident to me by this, that Mr. *Hughes* was denied his Money when he came for it; and Mr. *Hughes* by claiming it, ſo contrary to Senſe and Juſtice, hath pronounced a greater Satyr againſt himſelf than it is poſſible for Wit and Indignation in confederacy together to write or invent againſt him; and your *Lordſhip*, I hope, will be pleaſed for the future, having made this Experiment of Mr. *Hughes* as well as me, not to hearken too much to his clamorous Pretences of a legal Claim, when you ſee ſo plainly, that all is Fiſh with him that comes to Net; and that his legal Claims have no other bound or meaſure, than the Arbitrary Dependences of the

French King, that is, every thing is his, and legally too by the general Law that runs through all his deſigns, and equally juſtifies every thing he does, which he can graſp or come at, at the inſtigation of a will, that admits no practical Conſcience for its guide, and by the help of all the little Power he is Maſter of, and all the crafty, circumventing Arts he can uſe.

The ſecond thing, beſides the uncertainty of the Order it ſelf, which does not yet appear to me to be authentick, why I neither did nor could pay it that ſubmiſſion, which otherwiſe no Man ſhould have done more chearfully than my ſelf, was that it ſeemed to me to be too hard meaſure while I am under the apprehenſion that my Poſſeſſion is legal, for me to ſubmit to an Order, which with all humble Duty and ſubmiſſion I muſt affirm, I cannot believe to be ſo, which would be for me to juſtifie by my own act of conſent, and in a manner to acknowledg the legality of a proceeding againſt my Conſcience and my Intereſt together, which is too great an hardſhip even for Slaves and Vaſſals to endure; but if the Law will eject me, *currat lex*, I deſire no other favour than what the Law will afford me; but in all other things I am and ſhall always be ready to pay my lawful Superiours all poſſible obedience, ſo far as is conſiſtent with my honeſt Intereſt, in conjunction with my unqueſtionable Duty; For, my Lord, I have a Family to provide for beſides my ſelf, and it is therefore my duty to aſſert any lawful Intereſt that may tend to our common ſupport, but in any other caſe where my Duty and my preſent advantage cut upon and interfere with one another, I hope I ſhall always have the grace to look to the peace of my Conſcience, the honour of my Profeſſion, the reputation of my Name among good Men, and ſo to conſider my whole intereſt together, which my Antagoniſt does not ſeem to do, as not to forfeit my Title to a bleſſed immortality, and my proſpect of ſeeing the face of God with comfort, for the ſake of any periſhing and momentany advantage.

May it pleaſe your Lordſhip, when I began this my humble Repreſentation and Addreſs, which I did not intend to ſpin out to ſo great a length, in the midſt of ſo great importunities of publick buſineſs, as every moment ſollicit and invite your care; I mentioned theſe two conſiderations as the reaſons, why I did not pay that deference to the Orders of the Honourable Court for my Ejectment, which was expected from me; The firſt, 'That the ſaid Orders

ders proceeded upon a wrong bottom of the reſtitution of the Charter; And ſecondly, upon a defective Juriſdiction, which could not legally extend it ſelf ſo far, as to the making or paſſing any Order of this nature.

The firſt of theſe, after all that hath been ſaid upon it, is, I preſume, ſo clear, if there be any ſuch thing as Law or Reaſon in the World, that, I hope, your *Lordſhip* and the Court will be throughly ſatisfied as to that point, that Mr. *Hughes* hath no legal Right naturally accruing to and devolving upon him by this new and happy ſettlement of Affairs upon their ancient Baſis and Foundation, ſo that ſo far as your *Lordſhip* and the Court of *Aldermens* Juriſdiction is concerned, if there were no Superiour Authority, no higher Appeal, it is a matter of Equity that lies before you, betwixt Mr. *Hughes* and my ſelf, whether he ſhould be reſtored or I continued in the Poſſeſſion I have; and I am willing to refer my ſelf after a due Reflection upon what I have here humbly repreſented to your *Lordſhip*, to Mr. *Hughes* himſelf, who ſhall be Judge and Party in his own Cauſe, whether all the equitable Pretenſions are not mine, or whether it be poſſible in point of Equity, which is the Law of Conſcience, the Light of Nature, the bleſs'd reſult of Goodneſs and Juſtice together, for any Cauſe to have more to be ſaid in its defence than mine hath, or more to be ſaid againſt it than his.

As to the ſecond point of defective Juriſdiction, I muſt again take the Liberty, and I hope I ſhall do it without Offence to your Lordſhip, any juſt and unprovoked Occaſion of which I am naturally very tender of giving, to aſſert the Kings Title in oppoſition to that of any ſubordinate Authority acting under it, and to ſay that what the ſupreme Power hath lawfully eſtabliſhed, that no inferior can diſanull, unleſs upon emergent Neceſſity, or apparent Reaſon, without unhinging of Government, and inverting the Nature and the Order of things. I grant indeed though the firſt Orders proceeded upon the Suppoſition of the Reſtitution of the Charter, (for the laſt of the three hath made no mention of it) which ſaid ſuppoſition was plainly miſtaken and ungrounded; yet if the ſole, entire and abſolute Diſpoſal of this matter had layn properly before you, without any further Appeal, which, (when the King hath already determined) it doth not; that in ſuch Caſe the miſtaken ground would not have evacuated the Order that

was

was built upon it, unleſs you ſhould pleaſe to recall it, or to let it fall of it ſelf, becauſe abſolute Power is under no Obligation to aſſign a Reaſon; it may act without giving a Reaſon, as well as with it, and a bad Reaſon can never diſanull that Order, merely becauſe it cannot juſtifie it ſelf, whoſe true Authority conſiſts in the ſufficient Promulgation of the Will of the ordaining Power, which Will if it continues, the Order is valid to all Intents and Purpoſes, tho the Reaſon, upon which it is or may be built, be never ſo weak and infirm: But in this Caſe where the will of the Ordainer doth not extend ſo far, the Order is invalid by defect of Juriſdiction.

P. C. part. 1. *c.* 13. *p.* 164. Sir *Simon Degg*, who is my Counſel, tells me, that the King may give a Licence to a Subject to erect, or found a Church or Chappel donative, and exempt it from the Ordinaries Viſitation; and the Patron may in ſuch Caſe, viſit by his own Commiſſioners: And ſhall not the King, My Lord, be allowed to do that legally by his own immediate Power, that is, to viſit, by his own Commiſſioners, in his own Houſe and Chappel, which, at the ſame time, he may empower and priviledge any private Patron to do in his or her proper Gift, without Remedy or Appeal? And as to the Union of the two places, the ſame Author

p. 18. ib. tells us, that the Canoniſts allow even of Pluralities in ſix Caſes, of which one is the ſmalneſs of each Living by it ſelf, and another where two Churches are united (he muſt mean either by Contiguity or Authority, one of which is a natural, the other a legal Union) or depend the one upon another. And

p. 170. ib. in another Place he ſaith, the uniting of Churches ought to be, *cauſâ utilitatis ſive neceſſitatis*, as Vicinity, Paucity of Inhabitants, Smalneſs of the Livings, &c. and the Perſons that muſt concur to the Union, are the King, the Ordinary, and

p. 169. ib. the Patron, and if any of the Places be full, the Conſent of the Incumbent likewiſe is neceſſary to it; of my Conſent to my own advantage, I ſuppoſe no body will make a Queſtion, eſpecially when I am pleading for the Continuance of it, and the King, the Ordinary and Patron, being in this Caſe all of them the ſame, it is impoſſible there ſhould be a ſtronger Conſent, or by conſequence a firmer and more inſeparable Union, ſo far as my Perſon is concerned, (for it extends no farther) than this is.

It is no Contempt of any Court, whatſoever not to ſubmit to its Decrees in a matter of Right, if any Party think himſelf aggrieved

grieved, or if there be any legal Remedy, or any further Appeal; for even the King frequently ſuffers himſelf in ſuch Matters to be caſt and over-ruled in his own Courts of Juſtice, and the Subject may try a Matter of Right with the Prince, without any diminution to his Majeſty and Greatneſs, and without ſo much as incurring the leaſt Tittle of Diſpleaſure: for the King who is the great Fountain of Juſtice, as well as Honour, is always ſuppos'd to deſire that Right may be done, though it be againſt himſelf, who is and ought to be content with the Enjoyment of his own juſt Regalities, Prerogatives and Rights, without invading the Property of his Subjects, which by his Truſt and Character he is obliged to protect; and the Caſe though in a leſſer Proportion is the ſame, in every ſubordinate Magiſtrate whatſoever, who are what they are for this Intent and Purpoſe, that Right may be done in their reſpective Spheres, and that the Peace of the whole may be preſerved by the honorable, juſt, and candid Adminiſtration of all the ſeveral Parts, of which it conſiſts; and they ought to be ſo far from taking it ill, that any of their Orders or Determinations are at any time diſputed, by a fair Repreſentation, or by an higher Appeal, that it concerns them in point of Juſtice to favour it, and to review impartially and candidly what they have done; unleſs it be in ſuch Caſes where the Repreſentation is manifeſtly litigious, without any colour of Juſtice to ſupport it, which when it is ſo, it is eaſie to diſcern: but if there be a ſpecious Pretence, and the Law allows a farther enquiry and reſearch into the matter, though perhaps at the long run it will not be able to juſtifie it ſelf; in this Caſe it is for the Honour and Vindication of Juſtice, that the whole Cauſe ſhould be brought under a new Examination; and for this Reaſon it is that our Law ſuffers ſo many Suits to be commenced, that in their Commencement have a quarrelſome and vexatious Face, a litigious appearance, and a frivolous or a falſe Pretence, and in their iſſue prove to be no better, becauſe it is ſo very tender of denying Juſtice to any, and therefore in purſuance of this its great Deſign, it muſt ſubmit to many troubleſom and impertinent things, to prevent the leaſt hazard or ſhadow of doing wrong, though it always takes care by what is paſt, to prevent the like vexations to it ſelf and the Subject for the Future, by bringing thoſe Perſons to Puniſhment, or branding them with Shame; and by that means diſabling them from the

the like Practices and Designs in time to come, who are the Authors of such Mischief and Inquietude to their Neighbours, by promoting Strife and Variance among them, or by seeking causes of Action and Complaint upon every slight or else upon no occasion or upon false or frivolous Accusations. But my Case, my *Lord*, is still more favourable than any of these things, for either Mr. *Hughes* insists upon his former reall or pretended Right, which he saith returns again with the Restitution of the *Charter*; or else taking it for granted, that you may put in and put out whom you please, he depends upon your Order in the nature of a legal Presentation, as I do upon that of the Commissioners, with the King's particular Knowledge and Consent, granted in my behalf; and I am willing and ready at any time to bring either or both of these Points to a fair Tryal with him.

First, Whether he be restored upon the Restitution of the *Charter*, and in that Case he may claim without any Order of your *Lordship* and the Court, and for ought I know, may sue for and recover the mean Profits for these five years last past.

Secondly, Whether the King's Order, which is in some sort his Presentation, or yours be Superiour, or whether your Order can cancel or evacuate his. I beseech your *Lordship* to consider and apply it favourably to my particular Case, that when two several Patrons have presented to the same Living two several Clerks; it is never accounted any rudeness or indignity in either of them in the asserting of Right, which is much more sacred than the Authority of any Person, and more inviolable than the respect that is due to him: I say, it is never accounted any affront or injury in this Case, for either of these Clerks to dispute the Right and Title of that Patron by whom his Competitors Pretentions are supported; and it is always left to the Clerks to fight it out at Law between themselves, without any offence to the Patrons on either side, who must not take it ill that the Law hath its course, or that a Person who thinks himself injured seeks for Justice, as in bounden Duty to his own Welfare and Safety he is obliged to do, much less then, my *Lord*, have you and your worthy Brethren any Reason to take it ill, that I assert the King's Title and my own, which is founded upon it, in Opposition to yours, and that, I say, his legal Order cannot be reversed by any Authority inferiour to it self.

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If you leave Mr. *Hughes* and me to the Law, as in fairneſs, I humbly conceive, you ought to do, this being an Argument that you pretend to no Power, bnt what in Juſtice you may, then I doubt not in the leaſt of an Event ſuitable to the manifeſt Honour and Equity of my Cauſe.

If you apply to the King and Queen, you acknowledge by ſo doing, that the ordinary Methods of Law will not decide it to Mr. *Hughes* his advantage; and that your Orders are not founded upon Juſtice but only upon Will and Power, and yet when all is done, I humby hope their Majeſties will be graciouſly pleaſed to conſider in my Favour, that it is their Title I aſſert as well as my own; that very individual Power being now lodged in them, which was formerly in *Charles* and *James* the Second, and that the legal Acts of thoſe two preceding Princes, cannot be reverſed without the Conſent of the Preſent, and ought not to be reſcinded without a Reaſon, though they are the Judges whether there be Reaſon or no; and to their Royal Wiſdom and Goodneſs, I ſubmit it with all the Chearfulneſs and Reſignation that becomes me.

I know their Sacred Majeſties will graciouſly conſider the Engagements they have been pleaſed ſo lately to condeſcend to, to maintain this poor *Church of England*, and to protect its *Biſhops* and its *Clergy* in all their juſt and legal Rights; and I have great Ground to hope and to believe, though I am not arrogantly to preſcribe to Princes; and cannot ſee ſo far as my Sovereign *Lord* and *Lady*, who are as the Angels of God, to diſcern betwixt Good and Evil, Juſt and Unjuſt, Right and Wrong, ſo far conſider my Title to this ſmall Pteferment, not worth the noiſe and duſt that hath been raiſed about it, as to aſſert and vindicate their own, and ſo far blend the Exerciſe of their Sovereign Power, with the more God-like Attributes of Wiſdom, Juſtice and Goodneſs, without which the Divinity it ſelf would be all thunderbolt, and his Omnipotence would be feared and hated, inſtead of being humbly worſhipped and adored; as to reflect a little, if ſo mean a care can find entertainment in a Royal Breaſt, upon the different Circumſtances betwixt my Antagoniſt and me, and let them decide the Controverſie between us.

I rely upon the Royal Aſſurances they have given, not only the Church in general, but every individual Clergy-man belong-

ing to it, with a Divine Faith, as knowing they are God's Vicegerents, that have ſpoken it, whoſe word is as firm and as immoveable as the Pillars of Heaven from whence good Princes come, or the Foundations of the Earth committed to their Charge; *the Scepter of whoſe Kingdom is a right Scepter; and becauſe they have loved Righteouſneſs and hated Iniquity, therefore God, even their God, hath anointed them with the Oyl of Gladneſs above their fellows.*

To eject without Reaſon, out of a juſt and legal, though Arbitrary Poſſeſſion, with all profound Reverence and Duty be it ſpoken, is not that Protection, which their Majeſties have promiſed; which we their joyful and exultant Subjects expect, and which all that are not perfect Strangers to the Fame and Brightneſs of their Princely Virtues, *whoſe Line is gone out through all the Earth, and their words to the end of the World*, are ſatisfied and well aſſured they intend. The Globe of Majeſty put into their hands, was an Emblem of the firmneſs and ſtability of their Councels; and of that immoveable centre of Magnanimity and Juſtice, from whence all the Lines of Action and Adminiſtration are drawn, all equi-diſtant from their Sacred Head, and preſerving an inviolable Harmony and Agreement, a fixt and unchangeable Proportion with each other; and the Scepter never moves to bruiſe, or to oppreſs, but as a ſign of Condeſcenſion, and a mark of Grace; and we are bleſs'd with Princes made by Heaven for Empire, that are not only as Auſpicious, and Fortunate as *Auguſtus*, but as Good and Virtuous, as *Trajan*.

His Majeſty did not onely declare at his firſt happy landing upon *Engliſh* ground, that the great and onely deſigns of that Glorious Expedition, were to aſſert the liberty of the Subject, and to vindicate the oppreſs'd, and every day more and more endangered Rights of the Church of *England*, but of his continu'd reſolution to do both of theſe, he hath given us many freſh aſſurances, and to remove more effectually all ſort of doubt or ſcruple out of the minds of the moſt jealous and diſſatisfi'd Men, who becauſe they have been once deceived, are for ever after very difficult of entertaining belief, to the moſt ſolemn and ſerious aſſeverations that can be made, he hath bound himſelf and the illuſtrious Conſort of his Throne and Bed under the ſacred Obligation of an Oath, and the Parliament have unanimouſly addreſs'd and thanked him for theſe

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his gracious purpoſes and reſolutions ſo ſolemnly made and ſo frequently repeated; ſo that being legally put into this Place, being now in the actual Poſſeſſion of the ſame, and having no reaſon, that I know of, lying ſo hard upon me as to eject me from it, eſpecially for the ſake of Mr. *Hughes*, who hath no colour of a legal Claim, I have the Promiſe of their Majeſties Protection, and the concurrence of that great Aſſembly with them, and I do as little doubt, upon a farther inſpection into this little Affair, when thoſe of greater moment will give you leave; but your Lordſhip and the Court of Aldermen will likewiſe think fit to confirm me in a Poſſeſſion that hath ſome ſmall ſhare in the Parliaments Addreſs of thanks, and lays ſo juſt a Claim to the Aſſurances their Majeſties have given, and which in its root I take to be as legal, and almoſt as firm, as any other Poſſeſſion whatſoever.

For though the tenure of a Man's Employment be onely *durante beneplacito*, as mine indeed is with reſpect to a Power Superiour to yours, yet the general Law of Equity in all Poſſeſſions is, that all Perſons actually poſſeſs'd and capable of their reſpective Employments, and not miſdemeaning themſelves, ſhould continue in the Poſſeſſion they are in: for all Poſſeſſions by nature are *primi occupantis*, they belong to the firſt Poſſeſſor and to his Aſſigns after him; all legal Poſſeſſions, as there is no juſt one in a Government but what is ſo, if they are not limited to a certain time, are in reaſon inſeparable from the preſent actual Poſſeſſor, unleſs he ſhall voluntarily reſign it up, or ſhall incur ſome legal forfeiture or diſability, though the tenure be never ſo expreſly during pleaſure. It is true, a Maſter may turn away his Servant, as he pleaſeth; but if this Servant have behaved himſelf well, if the Maſter cannot ſerve himſelf better of another, and if beſides all this he have a deſire and ambition to continue in the Service, then there is an Obligation of ſome ſort of gratitude, as well as of the fundamental equity of all Poſſeſſions, not to deprive ſuch a Servant of his Employment for no Reaſon: acting without Reaſon being the firſt ſtep to Arbitrary Government in private or in publick Affairs, and the very next to acting againſt it; for he that acts without Reaſon, that is, without the impulſe and guidance of his Underſtanding, does manifeſtly yield too much to the blind and fantaſtick motions of his will, and this if we give it an Inch, will very ſoon take an Ell, it will act firſt without the leave of the Underſtanding

and Conſcience, and then in a direct oppoſition to them both, which is the heighth of Tyranny and Uſurpation, the root, ſtock, and branch of Arbitrary Power, whoſe fruits are almoſt as fatal and deſtructive as thoſe of the forbidden Tree it ſelf, that bring us to the knowledg of Good by the want, of Evil by the deplorable experience of it, and intercept the way to Paradiſe with a Flaming Sword, branded by the Arm of a *deſpotick Cherub* to hinder us from coming any more at the Tree of Liberty and Life; not but that an Arbitrary dependence is what it is, and a Man may without remedy be ejected out of it, though no reaſon be given, nor any ſhadow of a reaſon can be afforded; but then in this caſe the ſaying holds good, that *ſummum jus eſt ſumma injuria*, eſpecially if the Perſon thus diſplaced be deſtitute of any other equal or proportionable Subſiſtence, to that of which he is deprived, and hath not any Proviſion of the ſame, or near the ſame value to betake himſelf unto, and much more when he that is ſubſtituted in his room can get little or nothing by ſupplanting the other, but only the gratification of an unchriſtian, uncharitable and indefenſible Spleen; both of which are Mr. *Hughes*'s Caſe with reference to me, ſo that my Ejection out of this Service, by the Authority that hath ordained it, though it could be ſupported by the utmoſt Rigour of the Law, which I am well aſſured it can never be, yet would that Rigour be unjuſt, if not barbarous in it ſelf; and it would be an Offence, though not againſt the dry and dead letter of the Law, yet againſt that Soul and Life that gives the true Sanction and Authority to it; and that is the Conſcience and the Equity upon which it proceeds; it would be an Offence againſt that univerſal Reaſon by which all and all manner of Poſſeſſions are enſured; and that is founded in nothing elſe, but a juſt Poſſeſſion, without Injury or Oppreſſion to any other, a Performance of thoſe Conditions which are required reſpectively to the peaceable Enjoyment of this or that Advantage, and an equitable Conſent in the Over-ſeers of the Truſt, which is derived from both; for even a Freehold may be forfeited upon ſome Reaſons, and where there are no Reaſons moving to the contrary, but only Will and Pleaſure; there Will and Pleaſure ought not in Juſtice and Conſcience to take place, but even the moſt Arbitrary Dependence ought to be ſecure.

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The ſacred and ſtrict regard that is always had to an honeſt and juſt Poſſeſſion in the Law, is the Reaſon why a Tenant, tho without a Leaſe, cannot be ejected at pleaſure, and much leſs with it, by a concurrent Leaſe, to take place at the exſpiration of the term of the former, the ſaid Tenant paying and doing as by the Bargain and mutual Agreement he is obliged to do; and the ſame Reaſon holds in all manner of Rights, Poſſeſſions and Enjoyments, if in all Caſes it were equally attended to, as in ſtrict Juſtice and Conſcience it ought to be.

But of all ſorts of Poſſeſſions, there are none more Sacred than thoſe that belong to the Function that is ſo, and ſo it hath been always taken from the higheſt and moſt remote Antiquity of former Ages, down to this very moment in which I am writing. By the Law of *Moſes* there was a Proportion ſet apart out of every Man's Offering, every Man's Eſtate, for the maintenance of the Prieſthood; which could not be alienated or converted to any other Uſe upon any pretence whatſoever; and this depended upon a Reaſon of Equity, which is certainly of Divine and Eternal Right, that they that attend upon the Altar ſhould alſo live upon it, and that the Thoughts of thoſe that miniſtred in the holy things belonging to the Sanctuary, ſhould not be perplexed and troubled with any Secular Cares, and by that means hindred in the awful, reverent and decent Peformance of their Duty, which ought not and can never be performed, as it ſhould be, with a diſtracted Mind: the Reaſon of which holds ſtill more ſtrongly under the Goſpel Diſpenſation, which is much more internal and thoughtful than the other, and differs as much as the Religion of a Philoſopher from that of a Mechanick, or the noble and refined Operations of the Mind, (all which the ſtudy of an uſeful and inſtructive Divinity will employ) from the groſs and external Services of the Body: It is a Religion which conſiſts not in ſo poor a thing as Sacrifice, which very little Manual Operation may perform, but in Obedience, in Virtue, in Praiſe, Admiration and Inſtruction, in the Exerciſe, Exaltation and Improvement of thoſe beſt Faculties belonging to our Natures, by which we are Men, and by which we reſemble God, and by which alone we can be rendred capable of an happy Fruition and Enjoyment of him, of ſeeing and knowing him, not through a Glaſs, darkly, but in ſome competent meaſure, as he is in himſelf, full of

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his own Excellence, and discerned by his own Light, by transcribing and transplanting into the habit of our Minds, the Image of those Attributes and Perfections we adore.

And in pursuance of the Reason of this Levitical Institution, it was, That in all Christian Nations, from an high and remote Antiquity to this time, there hath been a standing and immoveable Provision for the Clergy, out of the Lands, Profits and Demesns of Secular and Lay Persons, by such and such stated Proportions, which may be demanded, sued for, and recovered by Law as a Due; and which are settled upon the respective Incumbents for their Lives, if they do not of themselves relinquish their said Preferments, or are not guilty of such scandalous and repeated Crimes, as to incur Suspension *à Beneficio*, or absolute Deprivation from the exercise of their Office, and from the Profits and Emoluments accruing by it; they are provided for with a present Subsistence, that they may not be diverted by the importunity of emergent Cares from a present actual Attendance upon their Duty, and this Subsistence of theirs was made perpetual, (and was much more competent in the smallest Livings in former Times than it is now) that so they might be rendered easie in their Minds, and void of an anxious Sollicitude for the future, which though not so great an impediment to the discharge of their Office, as present want and indigence must in Reason be, yet in some lesser Proportion it will always be a Thorn of Vexation in their sides; it will affect them more or less, according to the different Persons they have to do with, and upon whom their dependence relies, it will have a great Influence upon some Tempers, beyond what it will have upon others; and lastly it will be a means of an unreasonable Subjection of the Clergy to the Laity, and the occasion of many base Arts, and most unworthy Compliances with the Humours and Interests of unreasonable People, whereby to reprieve themselves from an impending Ruine, and get some further momentany, uncertain and despicable Respite in a slavish and arbitrary Dependence, fit for none but such wretches as are capable of being molded into all shapes, and of receiving all sorts of servile and mean Impressions from ill Men, instead of being the happy Instruments of Amendment and Reformation to them, by good ones of their own, made boldly and frankly without Fear or Favour, though

though not without a becoming Modesty and Discretion, upon every fit and suitable Occasion.

Now the Reason upon which all those Laws were made, is every whit as applicable to my own Case, though in outward form and appearance I hold by another Tenure, as it is to the rest of my Brethren of the Clergy, who have a legal Freehold in what they enjoy; for Tithes were no otherwise of Divine Right, than as they were ordained by God upon an equitable and eternal Reason, and are still continued by Men upon the same, as to the substantial meaning of the Institution, which was the support and maintenance of the Clergy, or of that Order of Men, (as such there ought to be in every Nation) that were dedicated and devoted to the Service of God, though as to the minute Proportion of such a Maintenance as that is, and as to the ways of Levying, Collecting or Distributing the same, it may admit of Change and Variation in different Times and Places. The Law of Tithes obligeth not so much by virtue of that Humane Authority, no, nor of that Divine Authority neither, that first established it, either among the *Jews* or in any other Nation, for both of these Authorities, as sacred as they are, and especially the latter of them, yet separate from Nature and eternal Reason, they are at best but positive and changeable things; but that which gives those Laws, in the general considered, which are made for the support and subsistence of the Clergy, an intrinsick and essential Character of Obligation, is the apparent Reasonableness, Equity and Justice of them, and that Equity appears as much in making the support perpetual, as in giving it at all, because the design of the one, for Reasons that have been given, would be defeated and disappointed without the other: and if this be equally the Case of all Ecclesiastical Preferments whatsoever, where a Subsistence for a Clergy-man is appointed in Consideration of a Duty to be done; the Tenure by which I hold, though it be onely *durante beneplacito*, will not evacuate the general Equity of the Case, but all Men that have a Reverence to the Laws, a due regard to Religion, and the Ministers of it, or a due sence of the great and fundamental Reasons upon which Bodies Politick and Societies are built, and by which equal Justice is administred to all, will never do any thing deliberately, and of set purpose against the manifest Equity upon which those Laws are built,

built, whoſe Obligation they will and ought always to acknowledge to be valid and binding upon them, even where the poſitive Letter doth not oblige.

If a Man keep a Chaplain in his Houſe, as his Domeſtick, he may diſcard him when he pleaſeth for no Reaſon at all, unleſs it be that of retrenching his Expences, becauſe the Law doth not oblige him to retain ſuch a Perſon in his Houſe, but yet it muſt be confeſſed to be very hard, and by Conſequence next kin to unjuſt, to turn a Man of that Character out of doors, without any other competent Proviſion, after he had deſerved well of the Family and his Patron for ſeveral years together; but where the Publick hath allowed a Maintenance out of the publick Revenue, there the Caſe and the Equity ariſing from it, is plainly as ſtrong and as clearly indiſpenſible in one Eccleſiaſtical Promotion as in another: all which if your *Lordſhip* will pleaſe candidly and impartially to apply to Mr. *Hughes* his Circumſtances and mine, that he was legally ejected for many and great Cauſes, and that I was legally ſubſtituted in his Place, that he can get nothing by his Reſtitution, and that he hath as little Right to it, as he can get profit or advantage by it, and that I muſt only be a great and unreaſonable Looſer, with little or no profit accruing and redounding to him, beſides many other Reaſons, which, I hope, your *Lordſhip* will ſome time or other take the leiſure to conſider; I doubt not but you will recall the Sentence, you have paſt, and think it more for the Reputation and Intereſt of your Court to diſcard Mr. *Hughes* than to protect him any longer; but if this be the meaning of an Arbitrary Dependence, (and ſuch I acknowledge mine in ſome ſence to be, though, by Reaſon of my Character and Function, it be the leaſt Arbitrary of any in this Houſe) that it is a dependence ſo perfectly and entirely holding of unaccountable Will and Pleaſure, that a Man may be ejected out of it for no reaſon and againſt a great many, and all by thoſe who are not the proper and immediate Judges, to whom the determination of his Cauſe belongs, I ſee not but a Tenure from the Wind and Weather, may be every whit as certain and as firm as this, and I perceive I was miſtaken when I valued it at a Years Purchaſe, when in reality it is not worth one day.

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Suppoſe, my *Lord*, that the Living of St. *Thomas*'s had not been united to the *Hoſpital* in my Perſon, would you then have ſtript me of this my only dependence for the ſake of ſo ſmall an advantage to Mr. *Hughes*, as it is ſo plainly demonſtrable this will amount to? And yet if in ſtrict Juſtice you had been obliged to do it, you would have been equally obliged in that Caſe, as you are in this; but if you are not obliged in ſtrict Juſtice to deal with me after this manner, then, I hope, you will reflect upon the Reaſons of Equity which I have offered on my behalf; and upon the many Arguments that ſtrike with ſo much force, and unanimity againſt his Pretenſions, and ſhew ſo plainly beyond all Exception, that there is nothing but Injuſtice and Malice on his part, nothing but Fairneſs and Honeſty on mine.

Beſides, that he cannot be reſident upon both Places at once; if he ſupplies this Place by a Curate, as I am juſt now informed he is about to do, and I know the Perſon who it is, * that I hope you will not, and I am very ſure in ſo inconſiderable a Preferment, but yet requiring ſo great and conſtant attendance as this does, you ought not to allow; Siſters and Cooks, and Butlers Helpers have been heard of in this Houſe, but the *Hoſpitallers* Helper, and that in his abſence too was never heard of before; but if he reſides here, which I am morally certain he will never do, and puts a Curate into his other Place; this is directly oppoſite to the Law againſt Pluralities, which will not permit a Man to be abſent and reſiant forty Miles from any of his Cures.

* One that cannot attend the *Hoſpital* at any time but on *Sunday*.

Let us ſuppoſe again, my *Lord*, I beg your *Lordſhip* to excuſe the plainneſs of the Compariſon, that at the time when you were pleaſed to make an Order for me to reſign up my Place to Mr. *Hughes*, and as I have been inform'd, in caſe of Non-obedience to the ſaid Order on my part, that Mr. *Hughes* ſhould have all paſt Arrears, and all growing Profits, becoming due for the future, that you had further ordained, that I ſhould deliver up my Books, and whatſoever elſe I had in my Poſſeſſion to him. Would it in this Caſe have been interpreted a Contempt to the Court of *Aldermen*, if I ſhould refuſe to do as that Order appointed? No certainly, but all Men would purge and vindicate me by ſaying, that your *Lordſhip*'s and the Courts Juriſdiction did not extend ſo far, and that it was no Contempt of a lawful Authority, not to obey an Order that was illegal and exceeded the juſt

bounds and measures of the Court, from whence it proceeded; so that to apply this matter to the purpose: I beseech your *Lordship* and the rest of the worthy Gentlemen concerned, to consider first seriously whether your Order be legal, and within the Jurisdiction to which you may justly pretend, before you accuse me of a rude Contempt, or affronting Disobedience to so great and honourable a Court, a thing which I will never be guilty of to any of my Superiours, to the best of my Understanding, so long as I live, and upon this one point, my *Lord*, the whole Controversie turns, whether your said Order, which I cannot help saying, is very far ^ equitable; be so much as strictly legal or no.

^ from

And to all this it is still further to be added, that Mr. *Hughes* having received his just doom of ejection from above, made his actual Resignation before a general Court, and I at the same time was actually substituted in his Room and Place, and he afterwards made a Sale of the Furniture of his Chamber to me; which I accordingly paid him for: So that here were all the Signs and Indications of a voluntary Resignation on his Part, who did not stand it out, as thinking himself injured, as I have done, and all the Formalities of a legal and orderly Possession on mine, which Possession I am still desirous to keep till I am legally ejected from it.

Another thing which in point of Argument I shall insist upon, shall be taken from an Act of Parliament 25. *Car.* 2. and entituled, *an Act for preventing Dangers, which may happen from Popish Recusants*, and in the Preface of the said Act, the design of it is said to be, for *quieting the minds of his Majesties good Subjects*, by which Act it is ordained and enacted that all and every Person or Persons, as well Peers as Commoners, that shall bear any Office or Offices Civil or Military, or shall receive any Pay, Salary, Fee or Wages, by reason of any Patent or Grant from his Majesty; or shall have Command or place of Trust, from or under his Majesty, or from any of his Majesties Predecessors, or by his or their Authority, or by Authority derived from him or them, within the Realm of *England*, &c. or shall be of the Houshold, or in the Service or Employment of his Majesty, &c. should within a time limited, be obliged to take the Oaths of Allegiance and Supremacy, and also to receive the Sacrament of the Lords Supper, according to the usage of the Church of *England*, publick-

publickly on a Lords day, commonly called Sunday, immediately after divine Service and Sermon, within a certain and prefixed time; and further at the making and taking of the Oaths aforesaid, they should likewise make and subscribe a Declaration in Manner and Form, as by the said Act is ordained, under the same Penalties and Forfeitures as are appointed by it; which said Penalties and Forfeitures were two-fold.

First, that all and every the Person or Persons aforesaid, that do or shall neglect or refuse to take the said Oaths and Sacrament, in the said Courts and Places, and at the respective times aforesaid, shall be *ipso facto* adjudged incapable, and disabled in Law, to all Inrents and Purposes whatsoever, to have, occupy, or enjoy the said Office or Offices, Employment or Employments, which shall be void, and are hereby adjudged void.

Secondly, it is further enacted, that all and every such Person or Persons that shall neglect or refuse to take the said Oaths, or the Sacrament as aforesaid, within the Times and in the Places aforesaid, and in the manner aforesaid, and yet after such Neglect and Refusal shall exercise any of the said Offices and Employments after the said times expired, wherein he or they ought to have taken the same; and being thereupon lawfully convicted, *&c.* every such Person or Persons shall be disabled from thenceforth to sue or use any Action, Plaint, Bill or Information in Course of Law, or to prosecute any Writ, in any Court of Equity, or to be Guardian of any Child, or Executor, or Administrator of any Person, or capable of any Legacy or deed of Gift, or to bear any Office within this Realm of *England*, &c. and shall forfeit five hundred Pounds, to be recovered by him, or them that shall sue for the same, *&c.*

From which brief Summary of the aforesaid Act of Parliament, I shall make these following Observations.

First that Ecclesiastical and Spiritual Persons, considered purely as such, are exempted from the Obligations and Penalties of the same; and that for several Reasons.

First, because the Act mentions no other Employments, but only Civil and Military, and by consequence the Ecclesiastical by not being taken Notice of, are excluded.

Secondly, it is a Maxim among Naturalists, *Natura nihil facit frustra*; and so it is also in Reason, *frustra fit per plura quod*

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fieri poteſt per pauciora: And for this cauſe it was not deſigned that this Act ſhould extend to Clergy-men, or Spiritual Perſons, as ſuch; becauſe they were ſufficiently ſecured to the Proteſtant Intereſt before; as far as Oaths or Declarations, or any other outward Significations of an inward meaning could do it; for there is no Clergy-man, nay, no Graduate in either of the Univerſities, but as often as he hath taken any Degree whatſoever, hath taken, as a neceſſary Adjunct and Appendix to it, the Oaths of Supremacy and Allegiance; he is bound to recognize the Kings Supremacy, as well in ſacred as in civil Cauſes, by the expreſs Inſtitution of that Directory for Prayer before Sermon, which the Canon hath enjoyned, and it is thought that the Forms of bidding Prayer in the injunctions of *Ed.* 6. and Q. *Elizabeth*, were enjoyn'd for nothing more (and ſome ſay only for that, it ſeeming otherwiſe unneceſſary after the morning Service,) but only to extort this repeated Recognition of the King or Queens Supremacy in all Cauſes, as often as ever he either preached himſelf, or read an appointed Homily to the People. Furthermore, every beneficed Clergy-man is obliged by his Office and Duty, as he is ſuch; at leaſt thrice every year, beſides what private Occaſions there may be, in the Viſitation of the Sick, which he cannot refuſe, both to take and give the Sacrament, according to the uſage of the *Church* of *England*: He ſubſcribes to the 39 Articles where Tranſubſtantiation is expreſly condemned, and to the Homilies wherein the Charge of the moſt groſs Idolatry is pathetically and elaborately laid, in three excellent Diſcourſes to the Church of *Rome*, and in the Office of Conſecration of the Elements of Bread and Wine, which he that Adminiſters muſt always recite, otherwiſe there can be no Conſecration of them, according to the uſage of the *Church of England*, they are expreſly called, *Theſe thy Creatures of Bread and Wine*, even after the ſaid Conſecration is over, for there is no Perception or Communication of or in them before that time, and yet theſe are the very words of the Conſecrating Prayer, at the end of the Communion Service; *Hear us, O merciful Father, we moſt humbly beſeech thee, and grant that we receiving theſe thy Creatures of Bread and Wine*, &c. Now we cannot receive the *Creatures* of Bread and Wine, if after the words of Conſecration pronounced by the Prieſt, they do not continue to be ſuch, as well as they were before

before; and therefore this is a plain Declaration of the Conſecrating Prieſt, that the ſaid Elements do ſtill remain to be what they were, before the Office of Conſecration began, in Oppoſition to the Popiſh Doctrine of Tranſubſtantiation, as any thing can be imagined. So that, I think, it is plain from all this, not only that Spiritual Perſons as ſuch, are not mentioned in this Act, but that they were under ſuch very ſtrict Antecedent Obligations before it, that it was impoſſible for them to give any further Satisfaction, than by Law they were already obliged to do: and that only Civil or Military Officers, and thoſe receiving Wages, Fee or Salary from the King, or by Authority derived from him, were intended, appears to me very plain by a Proviſo, which is the laſt Clauſe of this Act, wherein it is provided, with all the particularity and Caution that can be imagined, that this Act or any thing therein contained, ſhall not extend to the Office of any High Conſtable, Petty-Conſtable, Tithing-man, Head-borough, Over-ſeer of the Poor, Church-Warden, Surveyor of the High-Ways, or any like inferiour civil Office, (inferiour, becauſe not receiving Wages or Salary from the Publick) and excepted out of this Act likewiſe for another Reaſon, becauſe the Government of Pariſhes being every where in Proteſtant hands; there was little or no danger of any Papiſts creeping into any of the afore-mentioned Places of inferiour Truſt) or to any Office of Forreſter, or Keeper of any Park, Chace, Warren or Game, or of Bayliff of any Mannor or Lands, or to any like private Offices, which are here called private, becauſe not receiving Wages or Salary from the King; not but that the Clergy have taken and do ſtill generally take this Teſt, as well as other Men; but this I conceive to be a Proteſtant Work of Supererrogation, unleſs it be done for Example to the People, which I confeſs to be a Reaſon of Prudence, though it be none of Obligation.

Secondly, The ſecond Obſervation I ſhall make, ſhall be, that the *Lemma* or Title of this Act, being; *An Act for preventing Dangers that may happen from Popiſh Recuſants*; and the declared Intention of it in the Preface of the Act, being, *For the quieting the Minds of his Majeſties good Subjects*: It is certain, that it ought to be interpreted in particular Caſes, in all the reaſonable latitude that can be imagined; tho Act it ſelf being made out of

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extreme caution, after many other antecedent Proviſions, that had been made againſt Popery in former times, and it being impoſſible, as all good Proteſtants will very readily grant, to be too ſollicitous and careful, for preventing the dangers that may happen from Popiſh Recuſants, or as all good Patriots and good Men will ſay, to take too great Care for preſerving of the Peace, (which by Fears and Jealouſies is in danger of being diſturbed) and for the quieting the Minds of his Majeſties good Subjects.

And how very careful the makers of this Act were, for the avoiding the dangers that were intended to be prevented and obviated by it, beſides the general Scope, and declared Intention of the ſame, and beſides that this is but one Act amongſt, and after many that were then in force, to root out the Fears and Dangers of Popery from amongſt us, and to quaſh all attempts of introducing it any more, will further appear by theſe three Clauſes to be met with in it.

The firſt is, *p.* 145, 146. a Clauſe concerning a married Woman, or Perſon under the Age of eighteen years or beyond or upon the Seas or found by the lawful Oaths of twelve Men to be *non compos mentis*, and it is provided with particularities needleſs to my purpoſe to be here recited, that no ſuch Perſon ſhall by virtue of this Act loſe or forfeit any ſuch his or her Office, (other than ſuch married Woman during the Life of her Husband only) for any neglect or refuſal of taking the Oaths, and doing the other things required by this Act to be done by Perſons having Offices, *&c.* where (to omit Minors and Perſons that are not of a ſound Mind, who may have civil Offices by inheritance; or by virtue of ſome grant before the time of their falling into Diſtraction) when even Women are here mentioned, and are obliged to take the Oaths, and do other things required, as appears immediately after, within four Months after the death of the Husband; this ſhews that civil Offices in the true intent and meaning of this Act, muſt needs be taken in a very large and comprehenſive Senſe, and that any Employment is a civil Office, if it be neither Military nor Eccleſiaſtical, which receives Salary and Wages from the King.

Secondly, *p.* 146, 147. of the ſaid Act there is another Proviſo, that nothing in that Act contained ſhall extend to make any forfeiture, diſability, or incapacity, in, by, or upon any Non-

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commiſſion Officer or Officers, in his Majeſties Navy, if ſuch Officer or Officers ſhall only ſubſcribe the Declaration therein required, in manner as the ſame is directed.

Now by this Clauſe, it appears, that the Maſter and his Mate in a King's Ship, who, I have been informed, are not Commiſſion Officers, and who are indeed in no other quality on board of a Man of War, than the ſame Perſons with the ſame Titles, would have been on board of a Merchant, are to take this Teſt, as to the ſubſtance and fundamental point thereof, which is the renouncing the Doctrine of Tranſubſtantiation, by a written Declaration or Subſcription under their reſpective Hands; and all this though they have no immediate Commiſſion from the King, and are not ſo much as Military Officers, only becauſe they receive a certain Salary or Wages from him; ſo that this is another very plain indication in how great latitude the term of civil Office is in this Act of Parliament to be underſtood, as in the King's Houſhold every reſpective Domeſtick, though of never ſo inferior quality, and though in any other Family, being in the ſame Employments, they would be under no Obligation to take this Teſt by virtue of this Act, yet being of his Majeſties own proper Family, (though a Porter, a Cook, a Butler, a Launderer, *&c.* be Officers rather to be called Oeconomical than Civil) meerly by virtue of their receiving Salary and Wages from the King, and being in an Employment of what nature ſoever under him, they ſhall be obliged to take the Oaths, and make the Declaration in manner and form, as by that Act is preſcribed.

The third thing I intended, to prove the great extent and latitude in which this Act is to be underſtood, is what hath been ſaid already of High-Conſtables, Tithing men, and other Officers of Pariſhes, or Hundreds, who are excepted out of it; firſt becauſe there is no great danger of ſuch being Popiſh Recuſants, they being generally ſo well known to their Neighbours before their entrance into their reſpective Charges and Employments, and ſecondly, becauſe they do not act immediately by the King's Commiſſion, neither, thirdly and laſtly, do they receive any Fee, Salary or Wages from him; but then *exceptio firmat regulam in non exceptis*, in thoſe Places or Offices, that are not here excepted, in thoſe Offices where there may be danger from Popiſh Recuſants, acting by the King's Commiſſion, or by Authority derived

ved from him or his Predeceſſors, and receiving the King's Pay, or which is all one a Salary, Fee or Wages out of the Publick Revenue; the Obligation of this Act is ſtill ſo much the ſtronger, and is ſuppoſed to extend the more indiſpenſably to them; and though in this Clauſe the Office of Forreſter, or Keeper of any Park, Chace, Warren, *&c.* be likewiſe excepted, yet this I conceive is to be underſtood only of the Parks, *&c.* of the Nobility and Gentry, and that the Lord-warden of the Forreſts, or the Ranger of any of the King's Parks, receiving Wages or Perquiſites from under the King, by virtue of their Places, ſhall not be exempted by virtue of this Clauſe, or any thing therein contained.

My Lord, I humbly beg your Pardon, that I am thus tedious and importunate to your Lordſhip, but I muſt not be wanting to my neceſſary defence, and muſt rather chuſe, (though it be an hard neceſſity, and ſuch a *dilemma* as I could be very glad to have been freed from both its Parts,) to be rude and troubleſome to your Lordſhips Leiſure, which hath ſo many things of greater Conſequence to employ it ſelf about, than fail in the firſt and moſt eſſential Duty belonging to humane Life, which is called ſelf-preſervation, ſo far and no farther, as that end may be compaſſed by Means that are good and lawful.

Therefore as a third general Head of Obſervation, ariſing from the Act of Parliament above-mentioned, your Lordſhip may be pleaſed to take Notice, not only that to avoid any too nice Diſpute about what are Military, Civil, or Oeconomical Employments, any Service or Employment of His Majeſty, receiving Salary and Wages from him (For that is always to be underſtood) is lyable and obnoxious to the Obligation and Penalty of this Law, *p.* 136. but that it is ſufficient as is declared in the Words immediately foregoing, if it be an Employment holding from any of his Majeſties Predeceſſors, or by his or their Authority, or by Authority derived from him or them, within the Realm of *England*, &c. and ſo having made theſe general Obſervations, with your Lordſhips good Leave, I ſhall apply theſe Preliminaries to Mr. *Hughes*'s Caſe, and ſee how far he is concerned in this Parliamentary Act, and in the Penalties and Forfeitures accruing by it, and redounding from it, in Caſe of Diſobedience to what it enjoyns.

Firſt then, Mr. *Hughes*'s Office is manifeſtly an Office receiving

ving Wages or Salary, by Virtue of a Grant or Patent from his Majesties Royal Predecessor King *Edward* VI.

Secondly, admitting that it was an Employment purely Spiritual or Ecclesiastical, yet Mr. *Hughes* at his admission into it, and for some years after, was no spiritual Person in any legal Construction, so that receiving Wages from the King, for the discharge of an Office which could not be spiritual, unless the Person discharging it had been so, he was obliged to give that Security, which this Act requires, that he was no popish Recusant, and for default of so doing he was legally ejected, and was, and is still obnoxious to all the Penalties and Forfeitures of the said Act.

His being at the same time a non-conforming Minister, bound the Obligation of taking this Parliamentary Test, still the more indispensably upon him, for they are many times (without disparagement to any honest Man of any dissenting Persuasion) Wolves in Sheeps Clothing, the very first beginnings of Separation and Division from the Church of *England*, were from the Church of *Rome*, as your Lordship may be satisfi'd, by the Perusal of a little but very useful Book, entituled *Foxes and Firebrands*, wherein this is made out by undeniable Matters of Fact, that will not bear any Shadow of Dispute.

The Congregation *de propagandâ fide* at *Rome*, have determined this to be the most effectual Way to restore the pretended Catholique Religion, to sow Divisions and Animosities among those that have separated from it, and have forsaken that Superstitious and Idolatrous Communion, and the late Project of an universal Toleration endeavoured first by *Coleman*, as appears by his Letters that were produced at his Tryal, and owned by himself, and since published, and afterwards put in practice by others of the same Party, for the same reasons, is a sensible demonstration, of which we are all Witnesses, that in the Judgment of the Papists themselves, the Protestant Religion in general is highly endangered, by the disagreements of Protestants among themselves, and that not only by those Feuds and Animosities, which do but too naturally arise from a religious dissent, through the heat and zeal of the contending Parties, but also by the secret practices of Seminaries and Popish Priests, who appear in all shapes, and have their Incendiaries every where to blow up every coal, wherefoever they see any thing of combustible Matter

that hath but never ſo faint a poſſibility of being improved into an actual Flame.

I do not ſay, neither do I indeed believe it, that Mr. *Hughes* is a Papiſt or ſo much as Popiſhly affected, though ſuch Tools as he may drive on Popiſh Deſigns without ſo much as knowing that they do ſo. But this I ſay, my *Lord*, that this Act being made expreſly, after many other Proviſions of a like nature, for the preventing of dangers that may happen from Popiſh Recuſants, and for the quieting the Minds of his Majeſties good Subjects, and the only Reaſon why Clergy-men, or Eccleſiaſticks, or Spiritual Perſons in the legal ſenſe are not, as ſuch, obliged by this Act to give the ſecurity required by it, in manner and form as is preſcribed, being that they were beforehand with the Act it ſelf, and were all of them under very ſtrong antecedent Obligations, to give undoubted ſatisfaction, ſo far as Oaths and Subſcriptions can oblige Men, of their firm adherence to the Proteſtant Religion and Intereſt. It follows unavoidably, that Mr. *Hughes*, who received a Salary from the King for the diſcharge of a Truſt, having never given that ſecurity which the Government required from all that were ſo truſted, and ſo paid, and being beſides a ſuſpicious Perſon, upon account of his diſſent, there having been ſeveral ſuch that were Prieſts and Seminaries of the *Church of Rome*; I ſay, it follows inevitably that he muſt needs come within the reach of this Act, for the preventing of dangers that may happen from Popiſh Recuſants, and for the quieting the minds of his Majeſties Good Subjects, and that for not doing as that Act required, he hath incurred the forfeitures and diſabilities ariſing from the Breach and Violation of it.

I take it, that all the Officers belonging to this Houſe, receiving Wages or Salary by virtue of a Grant or Patent from their Majeſties Royal Predeceſſor, and by Authority derived from it, were obliged to take this Teſt, and for not doing it, all Mr. *Hughes* his Collegues, as well as himſelf, were legally incapacitated to hold their reſpective Employments; but this, for the Reaſons that have been mentioned, concerns Mr. *Hughes* much more than it doth any other. For it is plain the makers of this Act thought there was no ſecurity, that might be rely'd upon, that a Man was no Popiſh Recuſant, but by doing, ſubſcribing, and ſwearing as that Act requires; and how dangerous it muſt needs be to put, though but a ſuſpected or a poſſible Papiſt into ſuch a Poſt as his, where there are continually ſo many,

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not only sick, but dying Persons, I leave your *Lordship* and all Protestants to determine: and I appeal to all the World, whether a professt Papist might not every whit as legally have been chosen into this House in Mr. *Hughes* his Station, as Mr. *Hughes* himself in a religious Post, having the cure of the Souls of this *Hospital* committed to him, receiving Wages out of the publick Revenue for his Service, and not giving that security which the Act requires.

Neither doth it signifie any thing in this case, that we are all *hired Servants*, as the printed Ordinances of St. *Bartholomew's Hospital* do expresly call us, and that we are all of us dependent upon pleasure, (notwithstanding as I have said, we may lay claim to an equitable Right) for just so are most of the Officers of the King's Household, as also of the Customs and Excise; and yet they shall be and they are all of them in common practice, obliged to take this Test by virtue of this Act, meerly upon account of their receiving Wages and Salary from the King, let their Places be never so arbitrary and dependent; and in case of Competition, for Example, betwixt Mr. *Hughes* and me, the one to be continued in his Possession, the other to be restored, I suppose these three things will be granted, first, that he that was legally elected into his Possession, being of that Communion, that Order of Men, of which he ought by Law to be, is preferrable to him that was not, in point of right, though the tenure be only *durante beneplacito*, because that *beneplacitum* can never extend to any thing repugnant to or inconsistent with the Law.

Printed at *London*, 1652. *p.* 1.

Secondly, That he that after Election did within the time limited qualifie himself, by doing those things required by this Act, for the peaceable Enjoyment of his Place, hath also another Title which the other wants, so that he is in two respects preferrable before him, and ought to be considered without regard to the other, by all that will make the Law the measure and rule of their Actions.

Thirdly, It is no less plain from the words of the Act it self, that Mr. *Hughes* having formerly incurred a disability, though he have possibly since taken this Parliamentary-Test, yet he cannot be restored to his Place again in prejudice to any that was substituted in his room, and had an antecedent Qualification for the Place by virtue of his being actually in *Holy Orders*, according to Law, and a Subsequent, by doing within the time limited, as this Act required; for these are the very expres words of the Act it self, and, I hope, your

Lordſhip and the Court of *Aldermen* will not think it fit or reaſonable to diſpenſe with an Act of Parliament, an Act of ſuch Conſequence as this is, for the ſecurity of the Proteſtant Religion, at the very time when the Parliament is ſitting, and is conſidering even of further Securities to obviate the dangers ariſing from Popiſh Recuſants.

'Provided alſo that any Perſon, who by his or her neglect or refu-
'ſal, according to this Act, ſhall loſe or forfeit any Office, *p.* 146.
'may be capable by a new Grant of the ſaid Office or of any other,
'and to have and hold the ſame again, ſuch perſon taking the ſaid
'Oaths, and doing all other things required by this Act, ſo as ſuch
'Office be not granted unto and actually enjoyed by ſome other per-
'ſon, at the time of the re-granting thereof: Therefore either this Act is not good Law, which I know your *Lordſhip*, as well out of piety and zeal to the Proteſtant Religion, as for other Reaſons will be very far from allowing, or Mr. *Hughes* cannot be reſtored, by any thing leſs than an Act of Parliament made in his behalf, in prejudice to me.

The laſt thing which I ſhall mention to prove that the *Hoſpitaller*'s place, though Mr. *Hughes* had been in Orders as he was not, comes within the Obligation of this Act, ſhall be taken from this Conſideration, that the place is of a mixt nature, and is not wholly Spiritual or Eccleſiaſtick; I ſhall lay down the full and entire Deſcription of it, as I find it in the printed Orders of St. *Bartholomew's Hoſpital* above cited, which are the ſame with ours, as to the nature of the reſpective places, and the Obligations depending on them, and then leave it to be conſidered, whether Mr. *Hughes* in his Oeconomical Capacity, whatever becomes of his Sacred, receiving Wages from the King, was not equally obliged to take the Teſt with a woman in Office, whoſe Office can hardly be ſaid to be civil in any other, than a very large and comprehenſive ſence of that word, or with an hired Servant of the King's Houſhold, or an Officer of his Cuſtoms or Exciſe, or a Non-commiſſion Officer of a Ship, receiving Pay from the King or from thoſe that act by Authority derived from him.

The words of that Book are as follows, *p.* 17.

The Office of an Hoſpitaller.

YOur Office is chiefly and moſt principally to viſit the poor in their Extremes and Sickneſſes, and to miniſter unto them the moſt wholeſome and neceſſary Doctrine of Gods comfortable Word, as well by reading

reading and preaching, as alſo by miniſtring the Sacrament of the holy Communion at times convenient.

To receive alſo into this Houſe, of the Steward, to the uſe of the ſame poor, ſuch Victuals and other Proviſion as by him ſhall be provided, entring the ſame into your Book, and ſafely to keep them to their Uſe.

Alſo to deliver unto the Cook of this Houſe from time to time, ſo much of the ſame Victuals as ſhall be needful for the preſent time, to be dreſſed for the poor; and the ſame being dreſſed to ſee ſeaſonably, and truly delivered, and diſtributed unto them.

Alſo whenſoever any poor Perſon ſhall be here preſented or ſued for, to be admitted into this Houſe, you ſhall receive the ſame Preſentation, calling unto you two of the Chirurgeons of this Houſe, to view and examin the Diſeaſe of the ſaid Perſon, whether it be curable; if they Judge it curable then you by a Bill of yonr Hand to certifie the Name and Surname of the ſaid diſeaſed Perſon, unto the Almoners, or two of them at the leaſt, deſiring them to ſubſcribe their Names thereunto, and that being done, you to keep upon a file the ſame Bill for your VVarrant. And then ye ſhall commit the ſame poor to the Matron of this Houſe, to be placed accordingly as the Caſe ſhall require.

Alſo at the Admiſſion of every poor Perſon into this Hoſpital, ye ſhall enquire what Mony or other Things of value, he or ſhe hath; and the ſame together with his or her Name to enter into your Book, and you to receive and ſafely keep the ſame, to the Uſe of the ſame poor, to be delivered again unto him, her, or them, when they ſhall be cured out of this Houſe. And monthly to deliver to the ſaid Almoners, a Copy of your Book of Entrances, that they may regiſter the ſame in the Book of their ordinary doings. And if ſuch poor fortune to deceaſe and dy in this Houſe, then you to deliver all ſuch Mony and other Things, as ſhall be in your Cuſtody, to the Treaſurer of this Houſe, for the time being, entring the ſame into your Book, to be committed and diſpoſed, to the Uſe of the poor.

And as often as any of the poor ſhall be cured and made whole, you with the Chirurgeons to preſent them to the Almoners of this Houſe, at their next Aſſembly here, and to regiſter in your Book their Names and Surnames of them, and every of them, with the Day and Tear of their delivery and departure out of this Houſe. And at their departure to give them a Paſs-port, to be made according to the Precedent and Form that is expreſſed in the End of this Book, &c.

It is

It is true indeed, that all the burthen, beſides what is Spiritual, is now by Cuſtom taken off of the *Hoſpitallers* ſhoulders, but yet ſtill the original Charge deriving from the ſacred and indiſpenſible Will of the Founder is the ſame; and he is to ſee, that they that in many of theſe things are but Subſtitutes acting under him, though appointed by the Governors, or by the King thereto, be not wanting in the diſcharge of the Truſt committed to them; and this implies likewiſe, that he ſhould be reſident, which Mr. *Hughes* never was, and conſequently could not ſee to the Management of the Houſe; it implies likewiſe, that he ought not to be allowed to ſupply this place by a Curate, as he intends to do, becauſe he cannot transfer the authority committed to him, neither can the Curate by virtue of any ſuch delegated Power, correct or ſet right the abuſes, if any ſuch ſhall happen, of the Steward or other Officers, who are more or leſs under his Charge; and indeed if there were nothing, but the Spiritual concern to be conſidered, yet it is ſo great a Truſt of that kind, where there are ſo many ſick, and ſo many wicked People, that it is eaſie to be diſcerned, that his actual reſidence at or near the Place, can never be excuſed or diſpenſed with upon any pretence whatſoever, unleſs it be ſuch as our Statutes of *Chriſt*'s College in *Cambridge*, call *gravis ægrotatio*, or *violenta detentio*, a conſtraint laid upon him by ſickneſs or by force. It was the Will of the Founder, that it ſhould be a Civil or Oeconomical Office, as well as a Spiritual; and therefore it is ſo ſtill, and he is paid his Wages upon both of theſe accounts, notwithſtanding the ordinary and immediate care of ſome things be by cuſtom and length of time, devolved upon others, that he may be the more at leiſure to attend to his Spiritual Charge.

I have ſtill further to add, as to the buſineſs of Pluralities, that the Law makes a Living of eight pounds a year value in the K. Books; and Mr. *Hughes*'s is thirteen, to be ſuch a Living, as another cannot be held together with it, but within the diſtance, and with the qualifications required, and the Canon Law, which ſo far as it is conſonant to natural Reaſon and Juſtice is of eternal Obligation, is ſo ſtrict that even a ſmaller Living than this cannot and may not be held together with another, and by this Law ſince the Reformation, *Goodman*, *Dean* of *Wells* was deprived of his Deanery, becauſe he had accepted a Prebend in the ſame Church though neither of theſe Preferments were with Cure of Souls, and yet at the ſame time the Law is ſo favourable to contiguous

Dyer, 273. *p.* 35. *cit. P. C. p.* 19.

gnous Churches, that it hath been adjudged that two Rectories under one roof, are no plurality, because they are not in *pluribus Ecclesiis*, in more Churches than one; I have further to represent, that at the same time that I was put into this Place, my Father, as your *Lordship* well knows, was ejected out of another, which tho mean in it self, was yet of a greater value than the advantage Mr. *Hughes* can make, by holding this *Hospital* and his Living together; so that Mr. *Hughes* having no legal injury done him, as I have sufficiently proved, and there being so many other equitable Considerations, besides legal Pretentions on my side; I hope your *Lordship* will add to all this the loss which my Father, your fellow Citizen sustained, and will suffer that to intercede with you in behalf of his Son. *p.* 31. *ib.*

And so I humbly beg your *Lordship*'s Pardon, for this long but necessary trouble, wishing you with all my heart an happy Year, a prosperous Government, a good old Age, and an eternal Youth in the Kingdom of the blessed, where there are Joys and Pleasures at the Right hand of God for ever-more; and I am,

My Lord, *Your* Lordship's
most Humble and most Faithful Servant,
John Turner.

To Mr. HUGHES.

SIR,

YOU see I have been at no small pains to assert the Justice of my Cause against you. It is now your part, if you have any thing to say for your self to produce it as publickly as I have done, that so the World and the Reason of Mankind may be the Judge of the Controversie between us. I leave you to consider what indifferent Persons will say of you, especially in your Circumstances, who either are or ought to be an Example of Truth and Justice, if you still persist in snatching and extorting that by Power and Force, whose just Possession you cannot honestly vindicate or defend, nor shew one Reason either from Law or Conscience, why I should be obliged to make a surrender to you. I do not despair, but the Reason and Equity of my Cause will be too hard for the real or pretended Interest of yours; and I have here enclosed sent you the true Copy of a Testimonial, which that learned and good Society, where I had my Education, were so kind to send me, hoping that their knowledge of that little merit, which they are pleased to say they discerned in me, might be of some Service to me in this present juncture, to shield me from the Violence and Injustice of your Persecution against me. I doubt not, but I may obtain the same Honor and Obligation from the Professors and Heads of Houses in that University, if I desire it; in the mean time take this, which I have set down without the names, because I hope you will believe me, when it is so easie to convince me of a falshood,

if

if I have impoſed upon you or any body elſe, and becauſe theſe names ſhall be ſtet, God willing, together with others, if you have a mind to come to a Poll of our Brethren of the Clergy, and of the beſt and learneſt among them, whether in common ſenſe and juſtice, to which we ought all to ſubmit, the place of Hoſpitaller *of St.* Thomas Southwark, *be either yours or mine.*

THeſe are to certifie whom it may concern, that we the Maſter and Fellows of Chriſt's College, *to whom Mr.* John Turner, *Maſter of Arts, and late Fellow of this our College was very well known; do hereby certifie, that the ſaid Mr.* Turner *had juſtly that Reputation among us, of a Perſon of great Learning, Integrity and peaceableneſs of Temper, whilſt Fellow with us, that we could have heartily recommended him, as very capable and deſerving of Preferment in the Church.* Chriſt College, May 7*th* 1680.

And now if after all this I muſt be run down by number and by force, which I can by no means induce my ſelf to believe I ſhall, yet it is my comfort that I have not yielded, and it is my firm Reſolution, that I never will, whatever becomes of me or of my Fortunes in the World, the loſs of which I value much leſs, than I do the common Intereſt and well-fare of Mankind, which cannot be ſupported otherwiſe than by every honeſt Man's ſtanding up in the defence of Juſtice, in their reſpective Stations, as far as it is proper for them, and as far as without Sedition and Turbulence they may; "It was old Cæneus's *Caſe, an Hero of whom the* Grecian Bards *make Honorable mention, to be driven into the Earth by the dry ſtrength of blows, as a Pile to ſupport the weight that was upon it, when he could not be conquered and knew not how to yield.*

Καινέα μὲν τὸ πρῶτον ὑπαλύσιμον ἀνδρὶ
Κυπαιρίσσιον ὀλλὸς, ὅτι σφέας οἷος ἀπ' ἄλλων
Ἤλασ' ἀεικείῃσι· τὸ δ' ἐμμεμάασι θανέσθαι
Οὔτι μιν ἐγκλῖναι φερτῷ δόρυ, οὔτι δαΐξαι
Ἀλλ' ἀρρηκτος, ἄθραυστος, ἰδώσατο νειόθι γαίης
Θεινόμενος σιδαρῇσι πεπαρμένος ἰλάτυσι.

I leave it to you to conſtrue if you can, and I am, Sir, your humble Servant, expecting your Anſwer,

John Turner.

EA demum Victoria eſt, quando victi vincentibus accedunt, adductis rationibus, perſuaſi argumentis, non telis obruti, non vi compulſi, non dura Fortunæ ingruentis neceſſitate coacti: Vincit qui patitur, quando cauſa triumphat.

S. P. Q. L. & univerſo nomini Anglorum, ſub duplici auſpicio paris Auguſtiſſimi, quos Amor & Imperium felicíter conjunxit, ſalutem, pacem, concordiam, charitatem; quáque domi, quá foris proſperos eventus optat Johannes Turner, *indigena Londinenſis & Naſocomii Regalis quod eſt ad D. Thomæ, in ſuburbano Municipio trans Thameſin ad Auſtrum ſito, Regia Prerogativa & Patronatûs Jure, Hoſpitalarius.*

FINIS.